

Title XXII. Of Mortgages (Art. 3278 - 3411)

Louisiana

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3. By the extinction of the debt which gave birth to it;

Subd. 4 same as subd. 4, above.

CC 1808, p. 472, Art. 81.

Privileges and mortgages are extinguished:

1st, By the extinction of the principal obligation

2d, By the creditor's renunciation of the mortgage;

3d, By prescription.

Prescription is acquired to the debtor as to the property which is in his possession, through the lapse of the time fixed for the prescriptions [prescription] of the action which gives the mortgage or the privilege.

And as to the property which is held by a third possessor, prescription is acquired to him through the lapse of the time fixed for the prescription of the ownership in his favor.

CN 1804, Art. 2180, par. 1, subds. 1, 2, 4; pars. 2, 3.

Par. 1 and subds. 1, 2, 4 same as par. 1 and subds. 1-3, above.

Par. 2 same as par. 2, above.

As to the prop rty which is held by a third possessor, prescription is acquired to him through the lapse of the time fixed for the prescription of the ownership in his favor; in the cases where prescription implies a title, it begins to run only from the day when the title is inscribed on the books of the recorder.

2. Par l'acquisition que le créancier fait de la chose affectée au privilège;

3. Par l'extinction de la dette qui a donné naissance au privilège;

4. Par la prescription de ce droit.

-p. 473, Art. 81.

Les privilèges et hypothèques s'éteignent:

1. Par l'extinction de l'obligation principale;

2. Par la renonciation du créancier à l'hypothèque;

3. Par la prescription;

La prescription est acquise au débiteur, quant aux biens qui sont dans ses mains, par le tems fixé pour la prescription des actions qui donnent l'hypothèque ou le privilège.

Quant aux biens qui sont dans les mains d'un tiers détenteur, elle lui est acquise par le tems réglé pour la prescription de la propriété à son profit.

Par. 1 and subds. 1, 2, 4 same as par. 1 and subds. 1-3, above; but comma (,) after "s'éteignent", after "principale", and after "l'hypothèque"; period (.) after "Par la prescription."

Par. 2 same as par. 2, above.

Quant aux biens qui sont dans la main d'un tiers détenteur, elle lui est acquise par le temps réglé pour la prescription de la propriété à son profit: dans le cas où la prescription suppose un titre, elle ne commence à courir que du jour où il a été transcrit sur les registres du conservateur.

TITLE XXII—OF MORTGAGES*

*In connection with this title see Acts 1908, No. 76; 1908, No. 254; 1910, No. 215; 1910, No. 232; 1914, No. 169; 1916, No. 133; 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178); 1924, No. 119; 1928, No. 157; 1932, No. 166; 1934, No. 67; 1934, No. 199; 1938, No. 96. See also general comment by redactors, *Projet*, p. 381.

Chapter 1—GENERAL PROVISIONS

ART. 3278. *Mortgage* is a right granted to the creditor over the property of the debtor for the security of his debt, and gives him the power of having the property seized and sold in default of payment.

RCC—1968, 2016, 3095, 3182 *et seq.*, 3186, 3279 *et seq.*, 3286, 3364, 3398, 3556(20, 21). CP—61 *et seq.*, 275(6, 7), 648, 732 *et seq.* Acts 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178).

RCC 1870, Art. 3278.

(Same as Art. 3278 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3245.

(Projet, p. 381. Addition amended and adopted; comment by redactors)

Mortgage is a right granted to the creditor over the property of his debtor, for the security of his debt, and gives him the power of having the property seized and sold in default of payment.

L'hypothèque est un droit qui est accordé au créancier sur les biens de son débiteur, pour sûreté de sa créance, et qui lui donne la faculté de les faire saisir et vendre faute de payement.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3279. *Mortgage* is a species of pledge, the thing mortgaged being bound for the payment of the debt or fulfillment of the obligation.

RCC—3133, 3166, 3278, 3280 *et seq.*, 3291. Acts 1928, No. 249.

RCC 1870, Art. 3279.

Same as above.

CC 1825, Art. 3246.

(Projet, p. 381. Amendment adopted; no comment)

Same as above; but comma (,) after "debt."

L'hypothèque est une espèce de gage, la chose hypothéquée étant obligée au payement de la dette ou pour l'exécution de l'obligation.

CC 1808, p. 452, Art. 2, par. 1.

The mortgage is a sort of pawn, the mortgaged thing being bound for the payment of the debt or of the obligation.

-p. 453, Art. 2, par. 1.

L'hypothèque est une espèce de gage, la chose hypothéquée étant obligée au payement de la dette ou de l'engagement:

CN 1804. No corresponding article.

ART. 3280. It resembles the pledge:

1. In that both are granted to the creditor for the security of his debt.

2. In that both bind the thing subjected to them, and that the same thing can not be engaged to a second creditor to the prejudice of the first.

RCC—3133, 3157, 3166, 3181, 3279, 3281, 3290, 3329 *et seq.*, 3342 *et seq.* Acts 1874, No. 66 (as am. by 1882, No. 44, and 1922, No. 93); 1928, No. 249.

RCC 1870, Art. 3280.

Same as above.

CC 1825, Art. 3247.

(Projet, p. 381. Amendment adopted; comment by redactors)

Same as above; but comma (,) after "the creditor", and after "second creditor"; semicolon (;) after "debt."

L'hypothèque a de commun avec le gage:

1. Que l'un et l'autre sont accordés au créancier pour sûreté de sa créance;
2. Que l'un et l'autre affectent la chose qui y est sujette, et que la même chose ne peut être engagée à un second créancier au préjudice du premier.

CC 1808, p. 452, Art. 2, par. 2.

It agrees with the pawn, 1st, inasmuch as both are granted to the creditors for

-p. 453, Art. 2, par. 2.

Elle a de commun avec le gage, 1. Que l'un et l'autre sont accordés aux

security of their debts, 2d, inasmuch as both produce a lien on the thing which it subjects to it, and that one cannot engage the same thing to a second creditor to the prejudice of the other.

créanciers pour sûreté de leurs créances; et 2. Que l'un et l'autre affectent la chose qui y est sujette, et qu'on ne peut engager la même chose à un second créancier, au préjudice du premier.

CN 1804. No corresponding article.

ART. 3281. Mortgage differs from pledge in this:

1. That mortgage exists only on immovables, ships, steamboats and other vessels, or such other rights as shall be hereafter described, and that the pledge has for its object only movables, corporeal or incorporeal.

2. That, in pledge, the movables and effects subjected to it, are put into the possession of the creditor, or of a third person agreed upon by the parties, while the mortgage only subjects to the rights of the creditor the property on which it is imposed, without it being necessary that he should have actual possession.

RCC—3135, 3152, 3153, 3154 *et seq.*, 3162, 3176, 3181, 3279, 3280, 3282, 3289, 3290, 3426 *et seq.* Acts 1874, No. 66 (as am. by 1882, No. 44, and 1922, No. 93); 1904, No. 187; 1908, No. 254; 1910, No. 232; 1914, No. 169; 1928, No. 249. RS—3670.

RCC 1870, Art. 3281.

(Same as Art. 3281 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3248.

(Projet, p. 381. Amendment adopted; comment by redactors)

Par. 1 same as par. 1, above.

1. That mortgage exists only on immovables and slaves, or such other rights as shall be hereafter described; and that the pledge has for its object only movables, corporeal or incorporeal.

Subd. 2 same as subd. 2, above.

L'hypothèque diffère du gage:

1. En ce que l'hypothèque n'a lieu que pour les immeubles et les esclaves, ou autres droits ci-après décrits, et que le gage n'a pour objet que des effets mobiliers corporels ou incorporels;

2. En ce que, dans le gage, les meubles et effets qui y sont sujets, doivent être mis entre les mains et la possession du créancier ou d'un tiers convenu entre les parties, tandis que l'hypothèque ne fait qu'affecter aux droits du créancier les biens qui y sont sujets, sans qu'il soit besoin de l'en mettre en possession.

CC 1808, p. 452, Art. 2, par. 3.

It differs from the pawn, 1st, inasmuch as the term mortgage is only applied to immovables and slaves and that of pawn to movables; 2d, inasmuch as in the pawn the movables and effects which are subject to it must be put into the hands and possession of the creditor, whereas the mortgage does but affect the immovables and slaves to the right of the creditor, without any need of putting him in possession of them.

-p. 453, Art. 2, par. 3.

Elle diffère du gage 1. En ce que le terme d'hypothèque ne s'applique qu'aux immeubles et aux esclaves, et celui du gage aux meubles; et 2. En ce que, dans le gage, les meubles et effets qui y sont sujets, doivent être mis entre les mains et en la puissance du créancier, tandis que l'hypothèque ne fait qu'affecter les immeubles et esclaves aux droits du créancier, sans qu'il soit besoin de l'en mettre en possession.

CN 1804. No corresponding article.

ART. 3282. The mortgage is a real right on the property bound for discharge of the obligation.

It is in its nature indivisible and prevails over all the immovables subjected to it, and over each and every portion.*

It follows them into whatever hands they pass.

RCC—1642, 1996, 1997, 2011 *et seq.*, 2108, 2109, 2112, 3163, 3164, 3171, 3278, 3279, 3297, 3342 *et seq.*, 3376 *et seq.*, 3385, 3397, 3399 *et seq.* CP—4, 12, 41 *et seq.*, 61 *et seq.*, 163, 275, 648. Acts 1877, No. 38, §5 (as am. by 1916, No. 111, §5); 1900, No. 111, §8; 1902, No. 25; 1914, No. 72 (as am. by 1940, No. 291); 1914, No. 176, §§4, 14; 1918, No. 198, §4 (as am. by 1936, No. 178); 1928, No. 249, §10; 1932, No. 140, §43; 1932, No. 166; 1934, No. 41; 1934, No. 169. RS—1491. Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

RCC 1870, Art. 3282. (Same as Art. 3282 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3249. (Projet, p. 381. Amendment ‡ adopted; comment by redactors)

The mortgage is a legal** right on the property bound for the discharge of the obligation.

Pars. 2, 3 same as pars. 2, 3, above; but comma (,) after “indivisible.”

L’hypothèque est un droit réel** sur les biens qui sont affectés à l’acquittement de l’obligation.

Elle est de sa nature indivisible, et subsiste en entier sur tous les immeubles affectés, sur chacun et chaque portion de ces immeubles.*

Elle les suit dans quelques mains qu’ils passent.

CC 1808, p. 452, Art. 3.

The mortgage is a real right on the immovable affected by it.

It is in its nature indivisible. It subsists for the whole in all and each of the things affected by it and on every part of them; and it follows the mortgaged property into whatever hands it may pass.

-p. 453, Art. 3.

L’hypothèque est un droit réel sur les biens qu’elle affecte: elle est de sa nature indivisible; elle subsiste en entier sur tous et chacun des biens affectés et sur chaque portion d’iceux; elle suit le bien hypothéqué dans quelque [quelques] mains qu’il passe.

CN 1804, Art. 2114.

The mortgage is a real right on the immovables bound for the discharge of the obligation.

It is, in its nature, indivisible, and prevails over all the immovables subjected to it, and over each and over every portion of these immovables.

Par. 3 same as CC 1825, Art. 3249, par. 3, above.

L’hypothèque est un droit réel sur les immeubles affectés à l’acquittement d’une obligation.

Elle est, de sa nature, indivisible, et subsiste en entier sur tous les immeubles affectés, sur chacun et sur chaque portion de ces immeubles.

Par. 3 same as CC 1825, Art. 3249, par. 3, above.

*English translation of French text incomplete; should include “of these immovables.”

**Note error in English translation of French text; “legal” should be “real.”

ART. 3283. The mortgage only takes place in such instances* as are authorized by law.

RCC—3289, 3290 *et seq.*, 3311 *et seq.*, 3321 *et seq.*, 3342, 3345. Acts 1898, No. 23; 1908, No. 254; 1910, No. 232; 1914, No. 164.

RCC 1870, Art. 3283.

Same as above.

CC 1825, Art. 3250.

Same as above.

(Projet, p. 382. Addition adopted; no comment)

L’hypothèque n’a lieu que dans les cas et suivant les formes* autorisés par la loi.

CC 1808. No corresponding article.

CN 1804, Art. 2115.

The mortgage only takes place in such instances and according to such forms as are authorized by law.

Same as CC 1825, Art. 3250, above.

*English translation of French text incomplete; should include "and according to such forms."

ART. 3284. The mortgage is accessory to a principal obligation which it is designed to strengthen, and of which it is to secure the execution.

RCC—1771, 2645, 3035, 3133, 3136, 3290 *et seq.*, 3294, 3299, 3309.

RCC 1870, Art. 3284.

Same as above.

CC 1825, Art. 3251.

(Projet, p. 382. Addition ‡ adopted; no comment)

Same as above; but comma (,) after "obligation."

L'hypothèque est l'accessoire d'une obligation principale, qu'elle est destinée à corroborer, pour en assurer l'exécution.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3285. Consequently, it is essentially necessary to the existence of a mortgage, that there shall be a principal debt to serve as a foundation for it.

Hence it happens, that in all cases where the principal debt is extinguished, the mortgage disappears with it.

Hence also it happens that, when the principal obligation is void, the mortgage is likewise so; this, however, is to be understood with certain restrictions which are established hereafter.

RCC—1771, 1779, 2130, 2217, 3036, 3138, 3139, 3299, 3411.

RCC 1870, Art. 3285.

Same as above.

CC 1825, Art. 3252.

(Projet, p. 382. Addition adopted; no comment)

Same as above; but comma (,) after "a principal debt"; colon (:) after "so."

Il est par conséquent de l'essence de l'hypothèque, qu'il y ait une dette principale existante, qui lui serve de base, sans quoi elle ne peut naître.

De là vient que dans tous les cas où la dette principale s'éteint ou s'anéantit, l'hypothèque s'évanouit avec elle.

De là vient aussi que, quand l'obligation principale est nulle, l'hypothèque l'est pareillement; ce qui doit s'entendre cependant avec de certaines restrictions, qui sont ci-après établies.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3286. Mortgage is conventional, legal or judicial.

RCC—3278, 3287, 3288, 3290 *et seq.*, 3311 *et seq.*, 3321 *et seq.*, 3329, 3342, 3345.

RCC 1870, Art. 3286.

Same as above.

CC 1825, Art. 3253.

(Projet, p. 382. Amendment adopted; comment by redactors)

Same as above.

L'hypothèque est conventionnelle, ou légale, ou judiciaire.

CC 1808, p. 452, Art. 4.

There are three sorts of mortgages, we call conventional mortgages [mortgage] that which results from the agreement of the parties.

Judicial mortgage is that which the law attributes to judgments.

And legal or tacit mortgage that which exists by virtue of law alone.

-p. 453, Art. 4.

Il y a trois sortes d'hypothèques:

On nomme hypothèque conventionnelle, celle qui résulte de la convention des parties;

Hypothèque judiciaire, celle que la loi attribue aux jugemens;

Et hypothèque légale ou tacite, celle qui résulte de la loi seulement.

CN 1804, Art. 2116.

It is legal, judicial or conventional.

Elle est ou légale, ou judiciaire, ou conventionnelle.

ART. 3287. *Conventional mortgage is that which depends on covenants.*

Legal mortgage is that which is created by operation of law.

Judicial mortgage is that which results from judgments.

RCC—2012, 3286, 3290 *et seq.*, 3311 *et seq.*, 3321 *et seq.*, 3329, 3342. RS—3287.

RCC 1870, Art. 3287.

Same as above.

CC 1825, Art. 3254.

(Projet, p. 382. Amendment † adopted; comment by redactors)

Same as above.

L'hypothèque conventionnelle est celle qui dépend des conventions.

L'hypothèque légale est celle qui résulte de la loi.

L'hypothèque judiciaire est celle qui résulte des jugemens.

CC 1808, pp. 452, 453, Art. 4.

Quoted under RCC 1870, Art. 3286, above.

CN 1804, Art. 2117.

Legal mortgage is that which is created by operation of law.

Judicial mortgage is that which results from judgments or judicial acts.

Conventional mortgage is that which depends on covenants, and on the outward form of acts and contracts.

L'hypothèque légale est celle qui résulte de la loi.

L'hypothèque judiciaire est celle qui résulte des jugemens ou actes judiciaires.

L'hypothèque conventionnelle est celle qui dépend des conventions, et de la forme extérieure des actes et des contrats.

ART. 3288. Mortgage, with respect to the manner in which it binds property, is divided into general mortgage and special mortgage.

General mortgage is that which binds all the property, present and future, of the debtor.

Special mortgage is that which binds only certain specified property.

RCC—3286, 3290, 3307, 3308, 3310, 3320, 3328, 3333, 3338, 3348, 3404.

RCC 1870, Art. 3288.

Same as above.

CC 1825, Art. 3255.

Same as above.

(Projet, p. 382. Amendment adopted; comment by redactors)

L'hypothèque, relativement à la manière dont elle affecte les biens, se divise en hypothèque générale et en hypothèque spéciale.

L'hypothèque générale est celle qui affecte tous les biens présents et à venir du débiteur.

L'hypothèque spéciale est celle qui n'affecte que de certains biens nommément.

CC 1808, p. 456, Art. 30.

Mortgage is further divided into general and special mortgage.

The general mortgage is that which includes all the property present and to come of the debtor.

And the special mortgage on the contrary, is limited [limited] to certain property as to the property present or restricted nominally to a *certain specified property*.

-p. 457, Art. 30.

L'hypothèque se divise enfin, en hypothèque générale, et hypothèque spéciale.

L'hypothèque générale, est celle qui comprend tous les biens présents et avenir [à venir] du débiteur.

La spéciale, au contraire, est, ou limitée à de certains biens, comme aux biens présents, ou restreinte à certains biens nommément.

CN 1804. No corresponding article.

ART. 3289.* The following objects alone are susceptible of mortgage:

1. Immovables subject to alienation, and their accessories considered likewise as immovables.
2. The usufruct of the same description of** property with its accessories, during the time of its duration.
3. Ships and other vessels.

RCC—462 *et seq.*, 468, 471, 533 *et seq.*, 544, 555, 2792, 3283, 3290, 3305, 3310, 3320, 3328. Acts 1874, No. 66 (as am. by 1922, No. 93); 1898, No. 23; 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 232; 1914, No. 169; 1914, No. 176; 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178); 1921, E.S., No. 80, §5 (as am. by 1935, E.S., No. 12, §2); 1926, No. 186; 1926, No. 236; 1928, No. 249, §10; 1932, No. 67, §7; 1934, No. 67; 1934, No. 199; 1938, No. 96; 1938, No. 205; 1938, No. 376. RS—2427, 3670.

RCC 1870, Art. 3289.

(Same as Art. 3289 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3256.

(Projet, p. 382. Amendment adopted; no comment)

Par. 1 and subds. 1, 2 same as par. 1 and subds. 1, 2, above; but semicolon (;) after "duration."

Sont seuls susceptibles d'hypothèques:

1. Les immeubles qui sont sujets à aliénation, et leurs accessoires réputés immeubles;

2. L'usufruit des mêmes** biens et accessoires, pendant le temps de sa durée;

3. Les esclaves;

4. Enfin les navires et autres bâtiments.

3. Slaves;

Subd. 4 same as subd. 3, above.

CC 1808, p. 458, Art. 36.

The only property capable of being mortgaged are [is]:

1st, The immovables which are in commerce and their accessories which are deemed immovable;

-p. 459, Art. 36.

Les seuls biens susceptibles d'hypothèques sont:

1. Les biens immeubles qui sont dans le commerce, et leurs accessoires, réputés immeubles;

2d, Slaves in general;
3d, The usufruct of the said property and its accessories for the time it lasts.

-p. 458, Art. 38.

The present disposition no way alters or affects the dispositions [dispositions] of the maritime or trade laws, respecting ships and sea vessels.

CN 1804, Art. 2118.

The following objects alone are susceptible of mortgage,

1. Immovable property in commerce and its accessories considered likewise as immovables;

Subd. 2 same as CC 1808, p. 458, Art. 36, subd. 3, above.

-Art. 2120.

The present Code in no way alters or affects the dispositions of the maritime laws respecting ships and sea vessels.

2. Les esclaves en général;
Subd. 3 same as subd. 2, above; but period (.) after "durée."

-p. 459, Art. 38.

Il n'est rien innové, par les présentes dispositions, aux dispositions des lois maritimes ou du commerce, concernant les navires et bâtimens de mer.

Sont seuls susceptibles d'hypothèques,

1. Les biens immobiliers qui sont dans le commerce, et leurs accessoires réputés immeubles;

Subd. 2 same as CC 1808, p. 459, Art. 36, subd. 3, above; but no punctuation after "accessoires."

Il n'est rien innové par le présent Code aux dispositions des lois maritimes concernant les navires et bâtimens de mer.

*In connection with this article see Acts 1908, No. 254; 1910, No. 232; 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178); 1934, No. 67; 1938, No. 96.

***"Description of" has no counterpart in French text.

Section 1—OF CONVENTIONAL MORTGAGES

ART. 3290. The *conventional* mortgage is a contract, by which a person binds the whole of his property, or a portion of it only, in favor of another, to secure the execution of some engagement, but without divesting himself of the possession.

RCC—1761 *et seq.*, 3041, 3280 *et seq.*, 3286 *et seq.*, 3291 *et seq.*, 3306, 3342, 3345. Acts 1914, No. 72; 1914, No. 169; 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178).

RCC 1870, Art. 3290.

Same as above.

CC 1825, Art. 3257.

Same as above.

(Projet, p. 382. Amendment adopted; comment by redactors, p. 381)

L'hypothèque conventionnelle est un contrat par lequel une personne affecte la totalité de ses biens ou seulement quelques-uns d'entr'eux, en faveur d'un autre, pour sûreté de quelqu'engagement, mais sans se désaisir [dessaisir] de leur possession.

CC 1808, p. 452, Art. 1.

The mortgage is a contract by which a person affects the whole of his property or only some part of it, in favor of another, for security of an engagement, but without divesting himself of the possession thereof.

-p. 453, Art. 1.

L'hypothèque est un contrat, par lequel une personne affecte la totalité de ses biens, ou seulement quelques-uns d'entre eux en faveur d'un autre, pour sûreté de quelque engagement, mais sans se dépouiller de leur possession.

CN 1804. No corresponding article.

ART. 3291. A mortgage may be stipulated for the fulfillment of any obligation whatever, even for the performance of an act.

RCC—1764, 1885 *et seq.*, 1893 *et seq.*, 3140, 3279, 3290, 3292 *et seq.*, 3309.

RCC 1870, Art. 3291. (Same as Art. 3291 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3258. (Projet, p. 383. Addition adopted; no comment)
A mortgage may be stipulated for the fulfillment of any obligation whatever, even for the completion of a deed. On peut constituer une hypothèque, pour quelque obligation que ce soit, même pour l'accomplissement d'un fait.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3292. A mortgage may be given for an obligation which has not yet risen into existence; as when a man grants a mortgage by way of security for indorsements, which another promises to make for him.

RCC—1887, 1897, 2013, 2021 *et seq.*, 2043, 3140, 3291, 3293. Acts 1910, No. 232; 1914, No. 72; 1914, No. 164.

RCC 1870, Art. 3292.
Same as above.

CC 1825, Art. 3259. (Projet, p. 383. Addition adopted; no comment)
Same as above; but comma (,) after "existence." On peut donner une hypothèque pour une obligation qui n'existe point encore, comme lorsque quelqu'un donne une hypothèque pour sûreté d'endossements qu'un autre promet de lui souscrire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3293. But the right of mortgage, in this case, shall only be realized in so far as the promise shall be carried into effect by the person making it. The fulfillment of the promise, however, shall impart to the mortgage a retrospective effect to the time of the contract.

RCC—2013, 2021 *et seq.*, 2043, 3292.

RCC 1870, Art. 3293.
Same as above.

CC 1825, Art. 3260. (Projet, p. 383. Addition adopted; no comment)
Same as above. Mais le droit d'hypothèque, en ce cas, ne se réalisera, qu'autant que la promesse sera effectuée par celui qui l'a faite; néanmoins l'accomplissement de cette promesse donnera à l'hypothèque un effet rétroactif au moment du contrat.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3294. A mortgage may be given for a part only of the principal obligation.

RCC—2108 *et seq.*, 3037, 3284, 3290, 3307, 3309.

RCC 1870, Art. 3294.

Same as above.

CC 1825, Art. 3261.

(Projet, p. 383. Addition adopted; no comment)

Same as above.

On peut ne donner l'hypothèque que pour une partie seulement de l'obligation principale que l'on contracte.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3295. It is not necessary that the mortgage should be given by the person contracting the principal obligation; it may be given for the contract of a third person.

RCC—1890, 1902, 3035, 3041, 3141, 3296 *et seq.*

RCC 1870, Art. 3295.

Same as above.

CC 1825, Art. 3262.

(Projet, p. 383. Addition adopted; no comment)

Same as above.

Il n'est pas nécessaire que l'hypothèque soit constituée par celui qui a contracté l'obligation principale; on peut la donner pour celle d'un tiers.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3296. When a person has given a mortgage on his property* for the obligation of a third party, it is necessary to inquire whether he only gave the mortgage, or whether he bound himself personally for the fulfillment of the obligation.

RCC—1890, 1902, 1945 *et seq.*, 2012, 2019, 2278, 3141, 3282, 3295, 3297, 3298, 3397, 3403, 3405.

RCC 1870, Art. 3296.

Same as above.

CC 1825, Art. 3263.

(Projet, p. 383. Addition adopted; no comment)

Same as above.

Lorsque quelqu'un a donné une hypothèque sur ses biens, pour sûreté* de l'obligation d'un tiers, il faut examiner s'il a donné cette hypothèque purement et simplement, ou s'il s'est engagé lui-même personnellement à l'exécution de cette obligation.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "as security."

ART. 3297. In the former case, that is, if he has only mortgaged his property, to secure the fulfillment of an obligation by a third person, no right of action exists against him personally, but merely an action of mortgage against the thing, to have it seized and sold, so that if it perishes, he who mortgaged it shall be released from every species of obligation.

RCC—1997, 2012, 2019, 3282, 3296, 3298, 3397, 3398, 3399 *et seq.*

RCC 1870, Art. 3297.

Same as above.

CC 1825, Art. 3264.

(Projet, p. 383. Addition adopted; no comment)

Same as above; but no punctuation after "property"; comma (,) after "mortgaged it."

Dans le premier cas, c'est-à-dire, s'il n'a fait qu'hypothéquer purement et simplement ses biens pour l'exécution de l'obligation du tiers, il n'existera pas d'action personnelle contre lui, mais une simple action hypothécaire contre la chose pour la faire saisir et vendre, de manière que si la chose hypothéquée vient à périr, celui qui l'aura engagée sera complètement [complètement] déchargé de toute espèce d'obligation.

CC 1808. No corresponding article.**CN 1804.** No corresponding article.

ART. 3298. On the other hand, if the person who has given a mortgage for another, has bound himself personally for the fulfillment of the obligation, independently of the mortgage,* there shall exist against him a right of personal action, and he shall not be released, even if the thing mortgaged should perish.

RCC—2278, 3035 *et seq.*, 3296, 3297. CP—3, 4, 26.**RCC 1870, Art. 3298.**

Same as above.

CC 1825, Art. 3265.

(Projet, p. 383. Addition † adopted; no comment)

Same as above; but no punctuation after "the mortgage."

Si au contraire, celui qui a donné hypothèque pour un tiers, s'est engagé personnellement à l'exécution de l'obligation, indépendamment de l'hypothèque qu'il a souscrite,* il existera une action personnelle contre lui, et il ne sera pas déchargé, si la chose hypothéquée vient à périr.

CC 1808. No corresponding article.**CN 1804.** No corresponding article.

*English translation of French text incomplete; should include "which he executed."

ART. 3299. Although the nullity of the principal obligation includes that of the mortgage, this is to be understood, with respect to a person giving a mortgage for another, only in so far as the principal obligation is rescinded by an absolute nullity; for if the principal debtor has only obtained a rescission by a plea merely personal, such as minority or coverture, the mortgage given for him by a third person is not less valid* and shall have its full and entire effect.

RCC—1771, 2221 *et seq.*, 3036, 3060, 3138, 3284, 3285, 3295.**RCC 1870, Art. 3299.**

Same as above.

CC 1825, Art. 3266.

(Projet, p. 383. Addition adopted; comment by redactors)

Same as above; but comma (,) after "valid."

Quoique la nullité de l'obligation principale entraîne celle de l'hypothèque,

cela ne doit s'entendre, relativement à celui qui a donné une hypothèque pour un tiers, qu'autant que l'obligation principale est rescindée par l'effet d'une nullité absolue; car si le débiteur principal ne se fait décharger de son obligation que par une exception purement personnelle, telle que celle du mineur ou de la femme mariée, l'hypothèque, qui aura été donnée pour lui par un tiers, n'en sera pas moins valable contre ce tiers,* et aura son plein et entier effet.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "against this third person."

ART. 3300. Conventional mortgages can only be agreed to by those who have the power of alienating the property which they subject to them.

RCC—25, 31 *et seq.*, 50, 65, 69, 122 *et seq.*, 222, 339, 373, 376, 382, 389, 415, 432 *et seq.*, 555, 605, 638, 971, 1051, 1782 *et seq.*, 2015, 2357, 2360, 2362, 2390, 2402, 2404, 2436, 2445, 2867, 2870, 2996, 2997, 3283, 3301 *et seq.* Acts 1910, No. 148, §1; 1914, No. 72; 1914, No. 176, §1; 1921, E.S., No. 80, §5 (as am. by 1935, E.S., No. 12, §2); 1928, No. 250, §12; 1928, No. 283; 1928, E.S., No. 7, §17; 1932, No. 75; 1934, No. 222, §14; 1936, No. 275, §15; 1938, No. 81, §48; 1938, No. 376. RS—2427.

RCC 1870, Art. 3300.

Same as above.

CC 1825, Art. 3267.

(Projet, p. 384. Amendment adopted; no comment)

Same as above.

Les hypothèques conventionnelles ne peuvent être consenties que par ceux qui ont la capacité d'aliéner les biens qu'ils affectent à ce droit.

CC 1808, p. 458, Art. 32.

As the mortgage is intended to secure to the creditor, the payment of what is due to him, and as this payment can be obtained against the will of the debtor, only by the sale of the mortgaged property, it follows that a mortgage tends to an alienation and that therefore those alone who are capable of contracting and selling,* may mortgage their property.

-p. 459, Art. 32.

L'hypothèque ayant pour objet, d'assurer au créancier le paiement de ce qui lui est dû, et ce paiement ne pouvant s'effectuer, malgré le débiteur, que par la vente des biens hypothéqués, il en résulte, que l'hypothèque tend à une aliénation; en conséquence, il n'y a que ceux qui sont capables d'aliéner,* qui puissent hypothéquer leurs biens.

CN 1804, Art. 2124.

Conventional mortgages can only be agreed to by those who have the power of alienating the immovables which they cause to be mortgaged.

Les hypothèques conventionnelles ne peuvent être consenties que par ceux qui ont la capacité d'aliéner les meubles qu'ils y soumettent.

*Note error in English translation of French text; "contracting and selling" should be "alienating."

ART. 3301. Such as only have a right, that is suspended by a condition and* may be extinguished in certain cases,** can only

agree to a mortgage, subject to the same conditions and* liable to the same extinction.

RCC—555, 605, 1264 *et seq.*, 1516, 1535, 1562, 1568, 2015, 2021, 2043, 2045, 3142, 3300, 3304, 3307, 3342. Acts 1908, No. 21; 1914, No. 176, §1.

RCC 1870, Art. 3301.

Same as above.

CC 1825, Art. 3268.

(Projet, p. 384. Amendment amended in English text and adopted; no comment)

Same as above; but comma (,) after “conditions.”

Ceux qui n’ont sur ces biens qu’un droit suspendu par une condition, ou* résoluble dans certains cas, ou sujet à rescision,** ne peuvent consentir qu’une hypothèque soumise aux mêmes conditions ou* à la même rescision.

CC 1808, p. 452, Art. 7.

They who have on the property which may be duly mortgaged only a right either depending on a condition or subject to be annulled or rescinded in certain cases, can only consent to a mortgage subject to the same conditions or to the same rescission.

-p. 453, Art. 7.

Ceux qui n’ont, sur les biens susceptibles d’hypothèque, qu’un droit suspendu par une condition, ou résoluble dans certains cas, ou sujet à rescision, ne peuvent consentir qu’une hypothèque soumise aux mêmes conditions, ou à la même rescision.

CN 1804, Art. 2125.

Those who only have on the immovable a right that is suspended by a condition, or may be extinguished in certain cases, or subject to rescission, can only agree to a mortgage subject to the same conditions or liable to the same extinction.

Ceux qui n’ont sur l’immeuble qu’un droit suspendu par une condition, ou résoluble dans certains cas, ou sujet à rescision, ne peuvent consentir qu’une hypothèque soumise aux mêmes conditions ou à la même rescision.

*Note error in English translation of French text; “and” should be “or.”

**English translation of French text incomplete; should include “or subject to rescission.”

ART. 3302.* The property of minors, of persons under interdiction, of absentees and corporations, can not be mortgaged by contract, in any other form and manner than that directed by law.

RCC—50, 69, 122, 222, 339 *et seq.*, 373, 382, 384, 386, 415, 438, 439, 1785, 1868, 3148, 3556(3). Acts 1880, No. 125 (as am. by 1882, No. 102; 1890, No. 80; 1894, No. 93; 1900, No. 100; 1902, No. 30; 1908, No. 50); 1898, No. 61 (as am. by 1940, No. 221); 1902, No. 121, §1; 1908, No. 254; 1910, No. 148, §1; 1920, No. 110 (as am. by 1926, No. 319); 1928, No. 250, §12; 1928, No. 283, §2. RS—692, 693.

RCC 1870, Art. 3302.

Same as above.

CC 1825, Art. 3269.

(Projet, p. 384. Amendment adopted; no comment)

Same as above.

Les biens des mineurs, des interdits, des absents, et ceux des corporations, ne peuvent être hypothéqués par contrat, que dans la forme et de la manière prescrites par la loi.

CC 1808, p. 458, Art. 34.

The property of persons under age, interdicted or absent, as long as the possession thereof is made over only

-p. 459, Art. 34.

Les biens des mineurs, des interdits et des absents, tant que la possession n’en est déferée que provisoirement, ne

provisionally, cannot be mortgaged, except for the causes and in the forms directed by law or by virtue of a judgment.

peuvent être hypothéqués que pour les causes et dans les formes établies par la loi, ou en vertu du jugement.

CN 1804, Art. 2126.

Same as above.

Les biens des mineurs, des interdits, et ceux des absents, tant que la possession n'en est déferée que provisoirement, ne peuvent être hypothéqués que pour les causes et dans les formes établies par la loi, ou en vertu de jugemens.

*In connection with this article see Acts 1898, No. 61 (as am. by 1940, No. 221); 1902, No. 121, §1; 1908, No. 50; 1928, No. 250, §12.

ART. 3303. An attorney can only hypothecate the property of his principal, so far as he has a special power for that purpose.

Nevertheless, if the attorney on effecting a loan for his principal, had granted a mortgage, and the latter had received the money for the loan, or if it had been usefully employed for his benefit, the principal would be bound to ratify the mortgage, and might be compelled to execute it.

RCC—1797, 1889, 2996, 2997, 3010, 3021, 3149. Acts 1855, No. 253; 1940, No. 262, §1.

RCC 1870, Art. 3303.

Same as above.

CC 1825, Art. 3270.

(Projet, p. 384. Addition adopted; no comment)

Same as above; but comma (,) after "the attorney."

Un mandataire ne peut hypothéquer les biens de son mandant, qu'autant qu'il a un pouvoir spécial à cet effet.

Néanmoins, si le mandataire, en empruntant pour son mandant, avait accordé une hypothèque, et que celui-ci eût reçu les deniers du prêt, ou qu'ils eussent été employés utilement à son profit, le mandant serait tenu de ratifier l'hypothèque, et pourrait être contraint à son exécution.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3304. If a person contracting an obligation towards another, grants a mortgage on property of which he is not then owner, this mortgage shall be valid if the debtor should ever after acquire the ownership of the property, by whatever right.

RCC—1887, 3144, 3301, 3306 *et seq.*, 3320, 3328. Acts 1940, No. 266, §22.

RCC 1870, Art. 3304.

Same as above.

CC 1825, Art. 3271.

(Projet, p. 384. Addition † adopted; no comment)

Same as above; but comma (,) after "valid."

Si quelqu'un, en contractant une obligation envers un autre, lui assigne une hypothèque sur un bien dont il n'est point alors propriétaire, cette hypo-

thèque sera valable, si le débiteur qui l'a donnée, acquiert depuis la propriété du bien hypothéqué, à quelque titre que ce soit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3305. A conventional mortgage can only be contracted by act passed in presence of a Notary and two witnesses, or by act under private signature. No proof can be admitted of a verbal mortgage. Hypothecation of ships and other vessels are made according to the laws and usages of commerce; Provided that powerboats, sailing vessels, pull boats, dredges, barges and all other kinds of watercraft plying wholly within the navigable waters of this State provided that such vessels do not come within any of the provisions of the laws of the United States on the same subject matter may be mortgaged and hypothecated in the same manner, to the same extent and with the same legal effect as mortgages and hypothecations are executed upon lands and other immovables susceptible of mortgage, and when the act contains the "Pact de non aliendo [alienando]" such mortgage or hypothecation, in case of any sale or other alienation, shall follow the ship, steamboat, power-boat and other vessels so mortgaged or hypothecated in the hands of third persons, and may be seized and sold by executory or other process in the same way, manner and extent as lands and other immovables are now sold under conventional mortgages containing said Pact. All such mortgages or hypothecations must be recorded in the Parish where the owner resides and shall prescribe in ten years from the date of registry. (As amended by Acts 1916, No. 105)

RCC—2234, 2240 *et seq.*, 2251 *et seq.*, 2275, 2276, 3289, 3309, 3342 *et seq.*, 3346 *et seq.*, 3366, 3367, 3398, 3544. CP—61 *et seq.*, 732 *et seq.* Acts 1874, No. 66 (as am. by 1922, No. 93); 1898, No. 164; 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1914, No. 176, §§2, 3; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1928, E.S., No. 7, §17. RS—597, 3080, 3670, 3675.

RCC 1870, Art. 3305.

A conventional mortgage can only be contracted by an act passed in presence of a notary and two witnesses, or by an act under private signature. No proof can be admitted of a verbal mortgage.

Hypothecations of ships and other vessels are made according to the laws and usages of commerce.

CC 1825, Art. 3272.

Same as above.

(Projet, p. 384. Amendment adopted; no comment)

L'hypothèque conventionnelle ne peut être contractée, que par un acte passé en présence d'un notaire et de deux témoins, ou par un acte sous-seing privé. La preuve d'une hypothèque verbale n'est point admise.

A l'égard de l'hypothèque sur les navires et autres embarcations, elles se constituent suivant les lois et usages du commerce.

CC 1808, p. 452, Art. 5.

Conventional mortgage can be granted only by an authentic act made in the

-p. 453, Art. 5.

L'hypothèque conventionnelle ne peut être consentie, que par acte authentique,

usual form of contracts or by any act under private signature.

A mortgage verbally stipulated is not valid nor is the oral proof of it admitted whatever may be the amount of the debt or obligation for which it has been stipulated.

dans la forme ordinaire des contrats, ou par acte sous signature privée.

L'hypothèque stipulée verbalement, n'est pas valable, et la preuve testimoniale n'en est point admise, quelque soit le montant de la dette ou de l'obligation pour laquelle elle a été consentie.

-pp. 458, 459, Art. 38.

Quoted under RCC 1870, Art. 3289, above.

CN 1804, Art. 2127.

Conventional mortgage can be granted only by an act in authentic form passed before two notaries, or before one notary and two witnesses.

L'hypothèque conventionnelle ne peut être consentie que par acte passé en forme authentique devant deux notaires, ou devant un notaire et deux témoins.

-Art. 2120.

Quoted under RCC 1870, Art. 3289, above.

ART. 3306. To render a conventional mortgage valid, it is necessary that the act establishing it shall state precisely the nature and situation of each of the immovables on which the mortgage is granted.

RCC—1897, 1903, 2259, 3283, 3290 *et seq.*, 3307, 3310, 3328, 3342, 3348, 3394. Acts 1914, No. 169; 1914, No. 176 §§2, 3, 12, 13; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178).

RCC 1870, Art. 3306.

Same as above.

CC 1825, Art. 3273.

(Projet, p. 384. Addition adopted; no comment)

Same as above. (In conformity with Acts 1817, p. 118, §9)

Il n'y a d'hypothèque conventionnelle valable, que celle dont le titre constitutif déclare spécialement la nature et la situation de chacun des immeubles sur lesquels l'hypothèque est consentie. (In conformity with Acts 1817, p. 119, §9)

CC 1808. No corresponding article.

CN 1804, Art. 2129, par. 1.

To render a conventional mortgage valid, it is necessary that either the authentic act constituting the debt, or a subsequent authentic act, state precisely the nature and the location of each of the immovables belonging at the time to the debtor, on which he grants the mortgage for the debt. Each piece of property he then owns may be subjected by name to the mortgage.

Il n'y a d'hypothèque conventionnelle valable que celle qui, soit dans le titre authentique constitutif de la créance, soit dans un acte authentique postérieur, déclare spécialement la nature et la situation de chacun des immeubles actuellement appartenant au débiteur, sur lesquels il consent l'hypothèque de la créance. Chacun de tous ses biens présents peut être nominativement soumis à l'hypothèque.

ART. 3307. A debtor may mortgage his whole present property or only a specific part; but in either case it ought to be expressly enumerated, as is said in the preceding article.

RCC—1903, 3288, 3289, 3290, 3294, 3301, 3304, 3306, 3308, 3310. RS—3675.

RCC 1870, Art. 3307. (Same as Art. 3307 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3275. (Projet, p. 384. Addition adopted; no comment)
A debtor may mortgage his whole present property, or only a specific part, but in either case, it ought to be expressly enumerated, as it is said in the two preceding articles.
Le débiteur peut hypothéquer généralement tous ses biens présents, ou spécialement quelques-uns d'entre eux; mais, dans l'un et l'autre cas, il doit les hypothéquer d'une manière nominative et expresse, ainsi qu'il est dit dans les deux articles précédents.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3308. Future property can never be the subject of conventional mortgage.

RCC—1887, 1897, 1898, 2450, 2456, 3288, 3304, 3307, 3310, 3320, 3328. Acts 1908, No. 50; 1910, No. 232; 1914, No. 169; 1914, No. 176, §§12, 13; 1940, No. 266, §22.

RCC 1870, Art. 3308.

Same as above.

CC 1825, Art. 3276. (Projet, p. 384. Addition adopted; no comment)
Same as above.
Les biens à venir ne peuvent jamais être hypothéqués par convention.

CC 1808. No corresponding article.

CN 1804, Art. 2129, par. 2.

Future property cannot be mortgaged.
Les biens à venir ne peuvent pas être hypothéqués.

ART. 3309. To render a conventional mortgage valid, it is necessary that the exact sum for which it is given, shall be declared in the act.

RCC—1893, 2236, 2259, 2276, 3158, 3278, 3284, 3291, 3294, 3305, 3348. Acts 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178).

RCC 1870, Art. 3309.

Same as above.

CC 1825, Art. 3277. (Projet, p. 385. Addition adopted; no comment)
Same as above; but comma (,) after "sum." (In conformity with Acts 1817, p. 118, §9)
L'hypothèque conventionnelle n'est valable qu'autant que la somme, pour laquelle elle est consentie, est certaine et déterminée par l'acte. (In conformity with Acts 1817, p. 119, §9)

CC 1808. No corresponding article.

CN 1804, Art. 2132, clause 1.

Same as CC 1825, Art. 3277, above.
Same as CC 1825, Art. 3277, above; but no punctuation after "somme"; colon (:) after "l'acte."

ART. 3310. The conventional mortgage, when once established on an immovable, includes all the improvements* which it may afterwards receive.

RCC—504, 505 *et seq.*, 520 *et seq.*, 1903, 3288, 3289, 3306 *et seq.*, 3320, 3328. Acts 1914, No. 176, §§12, 13; 1932, No. 166; 1934, No. 67; 1940, No. 266, §22.

RCC 1870, Art. 3310.

Same as above.

CC 1825, Art. 3278.

Same as above.

(Projet, p. 385. Addition adopted; no comment)

L'hypothèque conventionnelle une fois acquise sur un immeuble, s'étend sur toutes les améliorations qu'on pourrait y faire, ou* qui y seraient survenues.

CC 1808. No corresponding article.**CN 1804, Art. 2133.**

The mortgage, when once established, includes all the improvements received by the mortgaged immovable.

L'hypothèque acquise s'étend à toutes les améliorations survenues à l'immeuble hypothéqué.

*English translation of French text incomplete; should include "which may have been made upon it, or."

Section 2—OF LEGAL MORTGAGES

ART. 3311.* The law alone in certain cases gives to the creditor a mortgage on the property of his debtor, without it being requisite that the parties should stipulate it; this is called *legal* mortgage.

It is called also *tacit* mortgage, because it is established by the law without the aid of any agreement.

RCC—1395, 1633, 2791 *et seq.*, 3182 *et seq.*, 3283, 3286 *et seq.*, 3312, 3314 *et seq.*, 3320, 3329, 3342, 3345, 3556(30). Acts 1869, No. 95; 1870, No. 25; 1898, No. 170. Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

RCC 1870, Art. 3311.

Same as above.

CC 1825, Art. 3279.

(Projet, p. 385. Substitution † adopted; no comment)

Same as above; but comma (,) after "alone", after "cases", and after "by the law"; colon (:) after "stipulate it."

La loi seule donne, en certains cas, une hypothèque au créancier sur les biens de son débiteur, sans qu'elle ait besoin d'être stipulée, entre les parties, c'est ce qu'on appelle l'hypothèque légale.

On appelle aussi cette hypothèque, tacite, parcequ'elle a son fondement dans la loi, sans le secours d'aucune convention.

CC 1808, p. 454, Art. 15, par. 1.

The legal mortgage is that which proceeds from the law, without any express covenant of the parties, but which is notwithstanding grounded on a tacit consent which the law presumes to have been given by him on whose property it grants this mortgage; therefore it is also called in law a tacit mortgage.

-p. 455, Art. 15, par. 1.

L'hypothèque légale, est celle qui procède de la loi, sans aucune convention expresse des parties, mais qui est fondée néanmoins sur un consentement tacite, que la loi présume donné par celui sur les biens duquel elle accorde cette hypothèque; c'est pourquoi elle est aussi appelée en droit, hypothèque tacite.

CN 1804. No corresponding article.

*In connection with this article see Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

ART. 3312. No legal mortgage shall exist, except in the cases determined by the present Code.

RCC—1131, 2791, 3185, 3283, 3311, 3313 *et seq.* Acts 1869, No. 59; 1870, No. 75; 1898, No. 158, §22 (as am. by 1906, No. 192, §1); 1928, No. 48, §1. RS—351, 356, 2367, 2424, 2960.

RCC 1870, Art. 3312.

Same as above.

CC 1825, Art. 3280.

(Projet, p. 385. Amendment adopted; no comment)

Same as above.

Il n'y a d'hypothèque légale que dans les cas déterminés par le présent Code.

CC 1808, p. 454, Art. 16.

There is no legal mortgages [mortgage] but in the cases directed by law.

-p. 455, Art. 16.

Il n'y a d'hypothèque légale, que dans les cas déterminés par la loi.

CN 1804. No corresponding article.

ART. 3313. The rights and credits on which legal mortgage is founded, are those enumerated in the following articles.

RCC—3312, 3314 *et seq.*, 3348. Acts 1898, No. 158, §22 (as am. by 1906, No. 192, §1; 1928, No. 48, §1); 1898, No. 170. RS—351, 356, 2367, 2424, 2960.

RCC 1870, Art. 3313.

Same as above.

CC 1825, Art. 3281.

(Projet, p. 385. Addition adopted; no comment)

Same as above.

Les droits et créances, auxquels l'hypothèque légale est attribuée, sont ceux qui sont décrits dans les articles suivans.

CC 1808, p. 454, Art. 15, par. 2.

Such is the mortgage which a minor has on his tutor's property from the day of his appointment; such is that which the law gives to the wife for her dowry on her husband's property.

-p. 455, Art. 15, par. 2.

Telle est l'hypothèque que le mineur a sur les biens de son tuteur, du jour de la nomination de celui-ci; telle est celle que la loi donne à la femme, pour sa dot, sur les biens de son mari.

CN 1804, Art. 2121.

The rights and credits on which a legal mortgage is founded, are:

Those of married women, on the property of their husbands;

Those of minors and interdicts, on the property of their tutors;

Those of the nation, of *communes*, and of public establishments, on the property of collectors and administrators who are accountable.

Les droits et créances auxquels l'hypothèque légale est attribuée, sont,

Ceux des femmes mariées, sur les biens de leur mari;

Ceux des mineurs et interdits, sur les biens de leur tuteur;

Ceux de la nation, des communes et des établissemens publics, sur les biens des receveurs et administrateurs comptables.

ART. 3314. Minors, persons interdicted and absentees, have a legal mortgage on the property of their tutors and curators, as a security for their administration, from the day of their appointment, until the liquidation and settlement of their final account.

And the tutors and curators of such persons have a like mortgage on their property, as a security for the advances which they may have made.

RCC—50, 55, 249, 251, 271, 278, 318 *et seq.*, 325 *et seq.*, 337, 357, 359 *et seq.*, 413, 415, 3095, 3311 *et seq.*, 3329 *et seq.*, 3342 *et seq.*, 3350 *et seq.*, 3369, 3541. Acts 1920, No. 223 (as am. by 1924, No. 68, and 1926, No. 283); 1922, No. 31. RS—1100, 2360.

RCC 1870, Art. 3314.

Same as above.

CC 1825, Art. 3282.

(Projet, p. 385. Amendment ‡ adopted; comment by redactors)

Same as above.

Les mineurs, les interdits et les absents, ont une hypothèque légale sur les biens de leurs tuteurs et curateurs, pour sûreté de leur administration, du jour de la nomination de ces tuteurs ou curateurs, jusqu'à celui de l'apurement [l'apurement] et de la clôture de leur compte définitif.

Et les tuteurs et curateurs de ces personnes ont une semblable hypothèque sur leurs biens, pour sûreté des avances qu'ils peuvent leur avoir faites.

CC 1808, p. 454, Art. 19.

Minors or persons interdicted or absent, have a legal mortgage on their tutors [tutor's] or curator's property, for surety of their administration, from the day of the appointment of said tutors or curators, and until the final settlement and closing of their accounts, and the tutors and curators of said persons have a like mortgage on their property for the security of the advances which they may have made to them.

-p. 455, Art. 19.

Les mineurs, les interdits et les absents, ont hypothèque sur les biens de leurs tuteurs et curateurs, pour sûreté de leur administration, du jour de la nomination desdits tuteurs et curateurs, jusqu'à celui de l'apurement et de la clôture de leur compte définitif.

Et les tuteurs et curateurs desdites personnes, ont une semblable hypothèque sur leurs biens, pour sûreté des avances qu'ils peuvent leur avoir faites.

CN 1804, Art. 2121, par. 3.

Quoted under RCC 1870, Art. 3313, above.

ART. 3315. There is a legal mortgage on the property of persons, who, without having been appointed tutors of minors or curators of interdicted or absent persons, interfere in the administration of their property, reckoning from the day on which the first act of interference was done.

RCC—3329, 3330, 3342 *et seq.*, 3355. RS—2361.

RCC 1870, Art. 3315.

(Same as Art. 3315 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3283.

(Projet, p. 385. Amendment adopted; comment by redactors)

There is a legal mortgage on the property of persons, who, without having been appointed tutors and curators of minors, interdicted or absent persons, interfere in the administration of their property, reckoning from the day on which the first act of interference was done.

Il y a hypothèque légale sur les biens de ceux qui, sans avoir été nommés tuteurs ou curateurs des mineurs, interdits ou absents, se sont immiscés dans l'administration des biens de ces personnes, à compter du jour où ils ont fait le premier acte de cette administration.

CC 1808, p. 456, Art. 20.

There is a legal mortgage on the property of those who, without being tutors or curators, have taken upon themselves the administration of the property of minors, persons interdicted or absent, from the day when they made the first act of that administration.

-p. 457, Art. 20.

Il y a hypothèque légale sur les biens de ceux qui, sans avoir été tuteurs ou curateurs, se sont immiscés dans l'administration des biens des mineurs, interdits, ou absents, à compter du jour où ils ont fait le premier acte de cette administration.

CN 1804. No corresponding article.

ART. 3316. The children of a previous marriage, where the mother has married again without convoking a family meeting to determine whether or not they shall remain under her tutelage, have a legal mortgage on the property of the new husband for the acts of tutorship thus unlawfully kept by the mother, reckoning from the day on which the new marriage took place.

RCC—254, 255, 3329, 3330, 3342, 3350 *et seq.* Acts 1920, No. 110 (as am. by 1926, No. 319); 1921, E.S., No. 34; 1934, No. 47 (as am. by 1935, E.S., No. 18). RS—2362.

RCC 1870, Art. 3316. (Same as Art. 3316 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3284. (Projet, p. 385. Amendment adopted; comment by redactors)

The children of a previous marriage, where the mother has married again, without convoking an assembly of the family, to determine whether or not they shall remain under her tutelage, have a legal mortgage on the property of the last* husband, for the acts of the tutorship thus unlawfully kept by the mother, reckoning from the day on which the new marriage took place.

Les enfans des précédens mariages, dont la mère s'est remariée, sans convoquer une assemblée de famille, pour faire prononcer si leur tutelle lui sera conservée ou non, ont une hypothèque légale sur les biens du nouveau* mari, pour les faits de la tutelle ainsi indûment conservée par leur mère, à compter du jour de la célébration du nouveau mariage.

CC 1808, p. 456, Art. 21.

The children of a preceding marriage, whose mother has married again, without calling on a meeting of the family, to decide whether the tutorship of said children shall be preserved to her or not, have a legal mortgage on the new husband's property, for the acts of the tutorship so unlawfully kept by their mother, from the day of celebrating the new marriage.

-p. 457, Art. 21.

Les enfans des précédens mariages, dont la mère s'est remariée sans convoquer une assemblée de famille pour faire prononcer si la tutelle desdits enfans lui sera conservée ou non, ont une hypothèque légale sur les biens du nouveau mari, pour les faits de la tutelle, ainsi indûment conservée par leur mère, à compter du jour de la célébration du nouveau mariage.

CN 1804. No corresponding article.

*Note error in English translation of French text; "last" should be "new."

ART. 3317. When either of the parents of a minor shall cause to be adjudicated to him the property which he possessed in common with the minor, the property thus adjudged remains specially mortgaged in the minor's favor* for the payment of the price of adjudication and interest, reckoning from the day on which it was adjudged.

RCC—343, 344, 3329, 3330, 3342, 3353. Acts 1916, No. 23; 1920, No. 110 (as am. by 1926, No. 319); 1928, No. 17; 1932, No. 209. RS—2363.

RCC 1870, Art. 3317. (Same as Art. 3317 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3285. (Projet, p. 385. Addition adopted; no comment)

When either of the parents of a minor shall cause to be adjudicated to him the property which he possessed in common with the minor, the property thus adjudged remains tacitly and specially mortgaged in the minor's fa-

Lorsque le père ou la mère d'un mineur s'est fait adjuger les biens qu'il possédait en commun avec lui, les biens ainsi adjugés demeurent tacitement et spécialement hypothéqués en faveur de ce mineur, pour sûreté* du payement du

vour,* for the payment of the price of adjudication and interest, reckoning from the day on which it was adjudged. prix de l'adjudication et de ses intérêts, à compter du jour de cette adjudication.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "as security."

ART. 3318. There is legal mortgage, reckoning from the closing of the inventory, on the property of the surviving husband or wife, or heirs, who have been invested by the inventory with the care of the property of the community or succession, until they are relieved from their care or a partition has been made.

RCC—916, 1035 *et seq.*, 1041 *et seq.*, 1121, 1135, 1289 *et seq.*, 2413, 3329, 3330, 3356. RS—2364, 2424.

RCC 1870, Art. 3318.

Same as above.

CC 1825, Art. 3286. (Projet, p. 386. Amendment adopted; comment by redactors)

Same as above; but comma (,) after "community", and after "their care." Il y a hypothèque légale, à compter du jour de la clôture de l'inventaire, sur les biens du survivant des époux, ou des héritiers qui ont été chargés par l'inventaire des biens de la communauté ou de la succession, jusqu'à ce qu'ils aient été déchargés de leur garde, ou qu'il y ait eu partage.

CC 1808, p. 456, Art. 22.

There is a legal mortgage from the day of the closing of the inventory against the survivor of the husband or wife, or against the heirs who have been entrusted, by the inventory, with the property belonging to the community or estate.*

-p. 457, Art. 22.

Il y a hypothèque légale, à compter du jour de la clôture de l'inventaire, contre le survivant des époux, ou les héritiers qui ont été chargés, par l'inventaire, des biens de la communauté ou de la succession.*

CN 1804. No corresponding article.

*Note error in English translation of French text; "estate" should be "succession."

ART. 3319. The wife has a legal mortgage on the property of her husband in the following cases:

1. For the restitution of her dowry, and for the reinvestment of the dotal property sold by her husband, and which she brought in marriage, reckoning from the celebration of the marriage.

2. For the restitution or reinvestment of dotal property, which came to her after the marriage, either by succession or donation from the day the succession was opened, or the donation perfected.

3. For the restitution or reimbursement of her paraphernal property.

RCC—1790, 2265, 2335, 2337 *et seq.*, 2347, 2350, 2353, 2355 *et seq.*, 2360, 2376 *et seq.*, 2383 *et seq.*, 2388, 2390, 2391, 2392 *et seq.*, 2404, 2425 *et seq.*, 3252, 3254, 3329, 3330, 3332, 3333, 3338, 3349, 3523, 3555. CP—105. RS—1706 *et seq.*, 2429 *et seq.*, 3988.

RCC 1870, Art. 3319.

(Same as Art. 3319 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3287.

(Projet, p. 386. Amendment ‡ adopted; no comment)

Same as par. 1 and subds. 1, 2, above; but semicolon (;) after "of the marriage"; comma (,) after "or donation."

La femme a une hypothèque légale sur les biens de son mari:

1. Pour la restitution de sa dot, et pour le remploi des biens dotaux vendus par le mari, et qu'elle a apportés en mariage, à compter du jour de la célébration du mariage;

2. Pour la restitution ou le remploi des biens dotaux qui lui sont advenus pendant le mariage, par succession ou donation, du jour que la succession s'est ouverte, ou que la donation a eu son effet.

CC 1808, p. 454, Art. 17.

The wife has a legal mortgage on her husband's property to wit:

1st, For the restitution of her dowry as well as for the replacing of her dotal effects alienated by her husband and which she brought in marriage, from the day of celebrating said marriage.

2d, For the restitution and the replacing of the dotal effects accrued to her during the marriage, either by succession or donation, from the day when said succession devolved or said donation took effect.

3d, To indemnify her against the debts to which she has made herself liable jointly with her husband and for the replacing of her hereditary effects alienated, from the time of her contracting said liability or from the day of the sale.

-p. 455, Art. 17.

La femme a une hypothèque légale sur les biens de son mari, savoir:

1. Pour la restitution de sa dot, et pour le remploi des biens dotaux vendus par le mari, et qu'elle a apportés en mariage, et ce, à compter du jour de la célébration du mariage;

2. Pour la restitution ou le remploi des biens dotaux qui lui sont advenus pendant le mariage, soit par succession ou donation, du jour que la succession s'est ouverte, ou que la donation a eu son effet;

3. Pour l'indemnité des dettes auxquelles elle s'est obligée, conjointement avec lui, et pour le remploi de ses propres aliénés, du jour de l'obligation ou de la vente.

CN 1804, Art. 2121, par. 2.

Quoted under RCC 1870, Art. 3313, above.

ART. 3320. The creditor who has a legal mortgage, except in the case where certain specific property is subjected to it, may exercise his right on all the immovables belonging to his debtor, and on such as may subsequently belong to him.

RCC—3182, 3288, 3289, 3304, 3306, 3308, 3310, 3311, 3328, 3329, 3335, 3342, 3369, 3398, 3411.

RCC 1870, Art. 3320.

(Same as Art. 3320 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3288.

(Projet, p. 386. Addition adopted; no comment)

The creditor, who has a legal mortgage, except in the case where certain specific property is subjected to it, may exercise his right on all the immovables and slaves belonging to his debtor, and on such as may subsequently belong to him.

Le créancier, qui a une hypothèque légale, à l'exception du cas où de certains biens y sont spécialement affectés, peut exercer son droit sur tous les immeubles et les esclaves appartenant à son débiteur, et sur ceux qui pourront lui appartenir par la suite.

CC 1808. No corresponding article.

CN 1804, Art. 2122.

The creditor who has a legal mortgage, may exercise his right on all the immovables belonging to his debtor and on such as may subsequently belong to him, subject to the modifications hereinafter explained.

Le créancier qui a une hypothèque légale peut exercer son droit sur tous les immeubles appartenant à son débiteur et sur ceux qui pourront lui appartenir dans la suite, sous les modifications qui seront ci-après exprimées.

Section 3—OF JUDICIAL MORTGAGES*

*In connection with this section see Acts 1916, No. 133; 1918, No. 190.

ART. 3321. The *judicial* mortgage is that resulting from judgment [judgments] (whether these be rendered on contested cases or by default, or whether they be final or provisional), in favor of the person obtaining them.

RCC—3283, 3286 *et seq.*, 3322 *et seq.*, 3329, 3342, 3345, 3361, 3381. CP—535 *et seq.*, 545. Acts 1908, No. 202; 1916, No. 133; 1918, No. 190. RS—3181.

RCC 1870, Art. 3321.

Same as above.

CC 1825, Art. 3289.

(Projet, p. 386. Substitution ‡ adopted; no comment)

Same as above; but “judgment” correctly spelled “judgments”; comma (,) after “judgments”, and after “provisional.”

L’hypothèque judiciaire est celle qui résulte du jugement, soit contradictoire, soit par défaut, définitif ou provisoire, en faveur de celui qui l’a obtenu.

CC 1808, p. 452, Art. 8.

The judicial mortgage is that which proceeds from every judgment: it is of the same nature as the conventional mortgage; it leaves the debtor in possession of all his property but it affects or makes them liable in the same manner as the conventional mortgage, to the payment of the amount for which judgment is obtained against the debtor.

-p. 453, Art. 8.

L’hypothèque judiciaire, est celle qui procède d’un jugement [jugement] quelconque; elle est de même nature que l’hypothèque convention; l’acte [conventionnelle;] elle laisse le débiteur en possession de tous ses biens, mais elle les affecte de la même manière que l’hypothèque conventionnelle, au paiement des condamnations prononcées contre le débiteur par le jugement.

CN 1804, Art. 2123, par. 1.

The judicial mortgage results from judgments whether these be rendered on contested cases or by default, or whether they be final or provisional, in favor of the person obtaining them. It results also from acknowledgements or verifications contained in the judgment, of signatures affixed to an act under private signature creating an obligation.

L’hypothèque judiciaire résulte des jugemens, soit contradictoires, soit par défaut, définitifs ou provisoires, en faveur de celui qui les a obtenus. Elle résulte aussi des reconnaissances ou vérifications, faites en jugement, des signatures apposées à un acte obligatoire sous seing privé.

ART. 3322. The Judicial Mortgage takes effect from the day the Judgment is recorded in the manner hereinafter directed. (As amended by Acts 1900, No. 78)

RCC—2264 *et seq.*, 3321, 3323 *et seq.*, 3329, 3342 *et seq.*, 3348, 3361, 3366 *et seq.*, 3547. CP—545. Acts 1869, No. 95; 1870, No. 75; 1908, No. 202; 1916, No. 133; 1918, No. 190.

Art. 3322.

The judicial mortgage takes effect from the day on which the judgment is recorded in the manner hereinafter directed; provided, that judgments, the parish of Orleans excepted, rendered at any term of court shall have no effect to create a judicial mortgage as between judgment creditors until from the day of adjournment of the term at which the same was rendered, although recorded prior to the adjournment of said term. (As amended by Acts 1888, No. 143)

RCC 1870, Art. 3322. (Same as Art. 3322 of Proposed Revision of 1869)

The judicial mortgage takes effect from the day on which the judgment is recorded in the manner hereafter directed.

CC 1825, Art. 3290. (Projet, p. 386. Amendment † adopted; comment by redactors)

The judicial mortgage takes effect from the day on which the judgment is pronounced, if it has been recorded in the manner hereafter directed.

L'hypothèque judiciaire a lieu du jour où le jugement qui la produit a été rendu, s'il est dûment inscrit, ainsi qu'il est dit ci-après.

CC 1808, p. 454, Art. 9.

The judicial mortgage takes place from the day when the judgment either on a hearing of the parties or by default, final or subject to an appeal, has been rendered in favor of him who obtained said judgment. If an appeal be brought from any judgment not final and the judgment be confirmed above, the mortgage shall reascend to the day when the original judgment was rendered.

-p. 455, Art. 9.

L'hypothèque judiciaire a lieu du jour où les jugemens, soit contradictoires, soit par défaut, définitifs ou susceptibles d'appel, sont rendus, et ce, en faveur de celui qui les a obtenus; s'il y a appel d'aucun jugement non définitif, et qu'il soit confirmé, l'hypothèque remonte au jour du jugement dont est appel.

CN 1804. No corresponding article.

ART. 3323. If there be an appeal from the judgment and it is confirmed, the mortgage relates back to the day when the judgment was recorded.

RCC—2265 *et seq.*, 3322, 3324, 3329, 3342, 3366 *et seq.*, 3371, 3381.
CP—545, 564 *et seq.* Const. 1921, VII, 25.

RCC 1870, Art. 3323. (Same as Art. 3323 of Proposed Revision of 1869)
Same as above.**CC 1825, Art. 3291.** (Projet, p. 386. Amendment † adopted; comment by redactors)

If there be an appeal from the judgment, and it is confirmed, the mortgage relates back to the day when the judgment was rendered.

S'il y a appel de ce jugement, et qu'il soit confirmé, l'hypothèque remonte au jour où le jugement a été rendu.

CC 1808, pp. 454, 455, Art. 9.

Quoted under RCC 1870, Art. 3322, above.

CN 1804. No corresponding article.

ART. 3324. When on the appeal the judgment has only been reversed in part, the mortgage* still exists for that part which has not been altered or reversed.

RCC—2265 *et seq.*, 3322, 3323, 3329, 3342 *et seq.*, 3366 *et seq.*, 3371, 3381.
CP—564 *et seq.* Const. 1921, VII, 25.

RCC 1870, Art. 3324.

Same as above.

CC 1825, Art. 3292.

(Projet, p. 386. Amendment amended in French text and adopted; comment by redactors)

Same as above.

Lorsque, sur l'appel, le jugement n'a été infirmé que dans de certaines dispositions, l'hypothèque résultant de ce jugement* subsiste pour toutes les dispositions qui n'ont pas été changées ou confirmées [infirmées].

CC 1808, p. 454, Art. 10.

When in the trial of an appeal the judgment has been reversed only in certain points, the mortgage of this judgment shall subsist as to all the points which have not been reversed or changed.

-p. 455, Art. 10.

Lorsque, sur l'appel, le jugement n'a été infirmé que dans de certaines dispositions, l'hypothèque de ce jugement subsiste pour toutes les dispositions qui n'ont point été changées ou infirmées.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "resulting from this judgment."

ART. 3325. The awards of arbitrators give rise to a mortgage only from the day that the homologation has been recorded.

RCC—2265, 3099 *et seq.*, 3129 *et seq.*, 3329, 3342 *et seq.*, 3361, 3366 *et seq.*

RCC 1870, Art. 3325.

(Same as Art. 3325 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3293.

(Projet, p. 386. Amendment adopted; comment by redactors)

The awards of arbitrators give rise to a mortgage, only from the day of their homologation.

Les décisions arbitrales n'emportent hypothèque que du jour où elles ont été homologuées en justice.

CC 1808, p. 454, Art. 11.

-p. 455, Art. 11.

The awards of arbitrators give a mortgage only from the day when their execution is ordered by the judge.

Les décisions arbitrales n'emportent hypothèque, que du jour où elles sont revêtues de l'ordonnance judiciaire d'exécution.

CN 1804, Art. 2123, par. 3.

The awards of arbitrators give rise to a mortgage only when their execution is ordered by the judge.

Les décisions arbitrales n'emportent hypothèque qu'autant qu'elles sont revêtues de l'ordonnance judiciaire d'exécution.

ART. 3326.* Mortgages result from the judgment rendered in other States of the Union or in foreign countries, only in so far as the execution has been ordered by a tribunal of this State, in the manner prescribed by law.

RCC—2265 *et seq.*, 3322, 3329, 3342 *et seq.*, 3366 *et seq.*, 3547. CP—746, 752, 753. Acts 1916, No. 133; 1924, No. 7.

RCC 1870, Art. 3326.

(Same as Art. 3326 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3294.

(Projet, p. 386. Amendment ‡ adopted; comment by redactors)

A mortgage results from judgments rendered in other States of the Union or in foreign countries, only in so far

as their execution has been ordered by a tribunal of this State, in the manner prescribed by the law.

CC 1808, p. 454, Art. 12.

In like manner judgments rendered in the other states or territories of the United States, give a mortgage only from the day when their execution has been ordered by one of the judges of this territory.

CN 1804, Art. 2123, par. 4.

In like manner a mortgage results from judgments rendered in a foreign country, only when they have been made executory by a French court; without prejudice to contrary provisions which may exist in political laws or in treaties.

qu'autant que leur exécution aura été ordonnée par l'un des juges de cet Etat, dans les formes prescrites par la loi.

-p. 455, Art. 12.

L'hypothèque ne peut pareillement résulter des jugemens rendus dans les autres états ou territoires de l'union, que du jour où l'exécution en a été ordonnée par l'un des juges de ce territoire.

L'hypothèque ne peut pareillement résulter des jugemens rendus en pays étranger, qu'autant qu'ils ont été déclarés exécutoires par un tribunal français; sans préjudice des dispositions contraires qui peuvent être dans les lois politiques ou dans les traités.

*In connection with this article see Acts 1916, No. 133.

ART. 3327. Judgments obtained against a person deceased only bear a mortgage on the personal property of the* heir from the day on which execution shall have issued against the heir by virtue of such judgments.

RCC—1013, 1421, 1422 *et seq.*, 1444 *et seq.* CP—21, 120 *et seq.*

RCC 1870, Art. 3327.

Same as above.

CC 1825, Art. 3295.

(Projet, p. 387. Amendment ‡ adopted; comment by redactors)

Same as above; but comma (,) after "deceased", after "of the heir", and after "against the heir."

Les jugemens, obtenus contre un défunt, n'emportent hypothèque sur les biens personnels de l'héritier pur et simple,* que du jour que l'exécution aura été prise contre cet héritier, en vertu de ce jugement.

CC 1808, p. 454, Art. 13.

Judgment obtained against a person deceased, gives a mortgage on the property personally belonging to his heir, only from the day of the judgment which ordered that they should be executed against said heir.

-p. 455, Art. 13.

Les jugemens obtenus contre un défunt, n'emportent hypothèque sur les biens personnels de l'héritier, que du jour du jugement qui les a déclarés exécutoires contre ledit héritier.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "unconditional."

ART. 3328. The judicial mortgage may be enforced against all the immovables which the debtor actually owns or may subsequently acquire.

RCC—3182, 3288, 3289, 3304, 3306, 3308, 3310, 3320, 3329, 3342, 3369, 3398, 3411, 3547. Acts 1908, No. 202.

RCC 1870, Art. 3328.

(Same as Art. 3328 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3296.

(Projet, p. 387. Addition adopted; no comment)

The judicial mortgage may be enforced against all the immovables and

L'hypothèque judiciaire peut s'exercer sur tous les biens-immeubles et esclaves

slaves which the debtor actually owns, or may subsequently acquire.

actuels du débiteur, et sur ceux qu'il pourra acquérir par la suite.

CC 1808. No corresponding article.

CN 1804, Art. 2123, par. 2.

It may be enforced against the immovables which the debtor actually owns or may acquire, saving the modifications hereinafter explained.

Elle peut s'exercer sur les immeubles actuels du débiteur et sur ceux qu'il pourra acquérir, sauf aussi les modifications qui seront ci-après exprimées.

Section 4—OF THE RANK IN WHICH MORTGAGES STAND WITH RESPECT TO EACH OTHER

ART. 3329.* Among creditors, the mortgage, whether conventional, legal or judicial, has force only from the time of recording it** in the manner hereafter directed.

RCC—2251 *et seq.*, 2377, 3269, 3273, 3286 *et seq.*, 3300 *et seq.*, 3311, 3319, 3321, 3323 *et seq.*, 3342 *et seq.*, 3346, 3347, 3357, 3358, 3361, 3364, 3365, 3368, 3369, 3370, 3386, 3388, 3397, 3399, 3403. CP—678, 706 *et seq.* Acts 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §§7, 8; 1910, No. 215; 1914, No. 169; 1914, No. 176, §7; 1916, No. 133; 1916, No. 255; 1918, No. 190; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1918, No. 198, §4 (as am. by 1936, No. 178); 1924, No. 7; 1926, No. 186; 1926, No. 236, §2; 1928, No. 249, §§7, 11; 1934, No. 199; 1936, No. 255. RS—2362, 2428, 2513, 3988. Const. 1921, XIX, 19.

RCC 1870, Art. 3329.

(Same as Art. 3329 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3297.

(Projet, p. 387. Amendment adopted; no comment)

Among creditors, the mortgage, whether conventional, legal or judicial, has force only from the time of recording it,** in the manner hereafter directed, except in the cases mentioned below.

Entre les créanciers, l'hypothèque, soit conventionnelle, soit légale, soit judiciaire, n'a de rang que du jour de l'inscription prise par le créancier sur le registre du conservateur, dans la forme et** de la manière qui sont ci-après prescrites, sauf les exceptions ci-après mentionnées.

CC 1808, p. 470, Art. 78.

Both the conventional and judicial mortgagee creditors have their rank settled among themselves, from the day of the recording of their mortgages in the office of the register of mortgages, in the form and manner directed by law.

-p. 471, Art. 78.

Les créanciers qui ont une hypothèque, soit judiciaire, soit conventionnelle, ont leur rang réglé entre eux, du jour de l'inscription qui en a été faite sur les registres du conservateur, dans la forme et de la manière prescrites par la loi.

CN 1804, Art. 2134.

Among creditors, the mortgage, whether legal, judicial or conventional, has force only from the time of the recordation made by the creditor on the register of the recorder, in the form and in the manner prescribed by law, except in the cases provided for in the following article.

Entre les créanciers, l'hypothèque, soit légale, soit judiciaire, soit conventionnelle, n'a de rang que du jour de l'inscription prise par le créancier sur les registres du conservateur, dans la forme et de la manière prescrites par la loi, sauf les exceptions portées en l'article suivant.

*In connection with this article see Acts 1910, No. 215.

**Note error in English translation of French text; "recording it" should be "the recordation made by the creditor on the register of the recorder, in the form and."

ART. 3330. The tutors of minors, and the curators of interdicted and absent persons, as well as husbands, are bound to render public the legal mortgages with which their property is burdened, and for this purpose to require that the acts, on which these mortgages are founded, shall be recorded without delay in the office provided for that purpose.

RCC—50, 55, 249, 251, 254 *et seq.*, 271, 278, 304, 318 *et seq.*, 325, 335, 337, 357, 359 *et seq.*, 413, 415, 2376, 3314, 3315 *et seq.*, 3329, 3331 *et seq.*, 3341, 3342 *et seq.*, 3346 *et seq.*, 3354, 3355, 3366 *et seq.*, 3370, 3386 *et seq.*, 3556(3). Acts 1922, No. 31. RS—1100, 2360, 3988.

RCC 1870, Art. 3330.

(Same as Art. 3330 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3299.

(Projet, p. 387. Addition adopted; no comment)

The tutors and curators of minors, interdicted and absent persons, as well as husbands, are bound to render public the legal mortgages with which their property is burdened, and for this purpose, to require that the acts, on which these mortgages are founded, shall be recorded without delay, in the office provided for that purpose.

Les tuteurs et curateurs des mineurs, interdits ou absents, ainsi que les maris, sont tenus de rendre publiques les hypothèques légales dont leurs biens sont grevés, et à cet effet de requérir eux-mêmes, sans aucun délai, inscription des actes d'où dérivent ces hypothèques, au bureau établi à cet effet.

CC 1808. No corresponding article.

CN 1804, Art. 2136, par. 1.

Nevertheless, husbands and tutors are bound to render public the mortgages with which their property is burdened, and, for this purpose, to require their recordation without delay, against the immovables belonging to them and against those which they may subsequently acquire, at the offices established for that purpose.

Sont toutefois les maris et les tuteurs tenus de rendre publiques les hypothèques dont leurs biens sont grevés, et, à cet effet, de requérir eux-mêmes, sans aucun délai, inscription aux bureaux à ce établis, sur les immeubles à eux appartenant, et sur ceux qui pourront leur appartenir par la suite.

ART. 3331. The undertutors of minors shall be bound personally and under the penalty of damages, to see that the records are made without delay, of the mortgages incurred by the tutors of those minors for the fidelity of their administration.*

RCC—273 *et seq.*, 278, 324, 3314, 3330, 3332, 3335, 3337, 3348, 3351. RS—2360, 2513.

RCC 1870, Art. 3331.

(Same as Art. 3331 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3301.

(Projet, p. 387. Addition adopted; no comment)

The subrogated tutors and curators for the causes of minors, shall be bound personally, and under the penalty of damages, to see that the records are made, without delay, of the mortgages incurred by the tutors and curators of those minors, for the fidelity of their administration.*

Les subrogés tuteurs et curateurs aux causes des mineurs seront tenus, sous leur responsabilité personnelle et sous peine de tous dommages-intérêts, de veiller à ce que les inscriptions soient prises sans délai sur les biens du tuteur ou curateur de ces mineurs, pour raison de sa gestion, et même de faire faire ces inscriptions.*

CC 1808. No corresponding article.

CN 1804, Art. 2137.

Undertutors shall be bound personally, and under the penalty of damages, to

Les subrogés tuteurs seront tenus, sous leur responsabilité personnelle, et

see that the records are made without delay of the mortgages on the property of the tutor for the fidelity of his administration, and even to have said records made.

sous peine de tous dommages et intérêts, de veiller à ce que les inscriptions soient prises sans délai sur les biens du tuteur, pour raison de sa gestion, même de faire faire lesdites inscriptions.

*English translation of French text incomplete; should include "and even to have these records made."

ART. 3332. In case of neglect on the part of husbands, tutors, undertutors and curators,* in causing to be made the recording ordained herein, it may be demanded by the relations of the husband or of the wife, and by the relations of the minor, interdicted or absent persons, or in default of relations, by their friends.

It may even be demanded by minors and married women, without any need on the part of the latter, of authority from husbands or judges.

RCC—278, 415, 2376, 3314 *et seq.*, 3319, 3330 *et seq.*, 3348, 3349, 3351, 3354, 3369, 3370. Acts 1921, No. 34; 1928, No. 283. RS—2360, 3984.

RCC 1870, Art. 3332.

(Same as Art. 3332 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3304.

(Projet, p. 388. Addition ‡ adopted; no comment)

In case of neglect on the part of husbands, tutors, subrogated tutors and curators,* in causing to be made the recording ordained by the preceding articles, it may be demanded by the relations of the husband, or of the wife, and by the relations of the minor, interdicted or absent persons, or in default of relations, by their friends.

Par. 2 same as par. 2, above; but comma (,) after "need."

À défaut par les maris, tuteurs, subrogés tuteurs et curateurs des mineurs, interdits ou absents,* de faire faire les inscriptions ordonnées par les articles précédents, elles pourront être requises par les parens, soit du mari, soit de la femme, et par les parens du mineur, interdit ou absent, ou à défaut de parens par leurs amis.

Elles pourront même être requises par les mineurs et par la femme, sans que celle-ci ait besoin d'être autorisée à cet effet par son mari ou par justice.

CC 1808. No corresponding article.

CN 1804, Art. 2138.

In case of neglect on the part of husbands, tutors, or undertutors in causing to be made the recording ordained by the preceding articles, it shall be demanded by the *commissaire du Gouvernement* of the civil court of the domicile of the husbands and tutors, or of the place where the property is situated.

A défaut par les maris, tuteurs, subrogés tuteurs, de faire faire les inscriptions ordonnées par les articles précédents, elles seront requises par le commissaire du Gouvernement près le tribunal civil du domicile des maris et tuteurs, ou du lieu de la situation des biens.

-Art. 2139.

The relations, of either the husband or wife, and those of the minor, or in default of relations, his friends, may require said recording; it may also be demanded by the married women and by minors.

Pourront les parens, soit du mari, soit de la femme, et les parens du mineur, ou, à défaut de parens, ses amis, requérir lesdites inscriptions; elles pourront aussi être requises par la femme et par les mineurs.

*English translation of French text incomplete; should include "of minors, interdicted or absent persons."

ART. 3333. When by the marriage contract, the parties, being of age, shall agree that the recording shall exist only on one or more immovables belonging to the husband, the immovables and other prop-

erty not included shall remain free and released from mortgage for the wife's dowry*; but it can not be stipulated that no recording shall be made.

RCC—2325, 2328 *et seq.*, 2337, 2353, 2376, 2378, 2379, 2390, 2394, 3288, 3319, 3334, 3335, 3338, 3341. RS—1706, 2429, 2512.

RCC 1870, Art. 3333.

Same as above.

CC 1825, Art. 3305.

(Projet, p. 388. Addition † adopted; no comment)

When, by the marriage contract, the parties, being of age, shall agree that the recording shall exist only on one or more immoveables belonging to the husband, the immoveables and other property not included shall remain free and released from mortgage for the wife's dower*; but it cannot be stipulated that no recording shall be made. (Similar to Acts 1824, p. 164, §8)

Lorsque dans le contrat de mariage, les parties majeures seront convenues qu'il ne sera pris d'inscription que sur un ou plusieurs immeubles du mari, les immeubles ou autres biens qui ne seraient pas indiqués pour l'inscription, resteront libres et affranchis de l'hypothèque pour la dot de la femme et autres répétitions qui jouissent de ce droit*; mais il ne pourra pas être convenu qu'il ne sera prise aucune inscription. (Similar to Acts 1824, p. 164, §8)

CC 1808. No corresponding article.

CN 1804, Art. 2140.

When, by the marriage contract, the parties, being of age, shall agree that the recording shall exist only on one or certain immovables of the husband, the immovables not included shall remain free and released from the mortgage for the dowry of the wife, and for her claims and marriage settlement. It cannot be stipulated that no recording shall be made.

Lorsque, dans le contrat de mariage, les parties majeures seront convenues qu'il ne sera pris d'inscription que sur un ou certains immeubles du mari, les immeubles qui ne seraient pas indiqués pour l'inscription resteront libres et affranchis de l'hypothèque pour la dot de la femme et pour ses reprises et conventions matrimoniales. Il ne pourra pas être convenu qu'il ne sera prise aucune inscription.

*English translation of French text incomplete; should include "and other claims enjoying the same right."

†Note error in English translation of French text; "dower" should be "dowry."

ART. 3334. The case shall be the same with respect to the immovable property of the tutor of the minor, or that of the curator of the interdicted or absent person, when the judge shall have authorized them in the manner prescribed by law, to hypothecate a specific portion of their property by way of security for their administration, as is provided in the title: *Of Minors, their Tutorship, and Emancipation.*

RCC—50, 251, 318, 320 *et seq.*, 325 *et seq.*, 343, 415, 3330, 3333, 3335. Acts 1920, No. 110 (as am. by 1926, No. 319); 1920, No. 223 (as am. by 1924, No. 68, and 1926, No. 283); 1922, No. 31; 1934, No. 47 (as am. by 1935, 2E.S., No. 18). RS—1100, 2360.

RCC 1870, Art. 3334.

(Same as Art. 3334 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3306.

(Projet, p. 388. Addition adopted; no comment)

The case shall be the same with respect to the immovable property of the tutor or curator of the minor, inter-

Il en sera de même pour les immeubles du tuteur ou curateur du mineur ou de l'interdit, ou de l'absent.

dicted or absent person, when the judge shall have authorized them, in the manner prescribed by law, to hypothecate a specific portion of their property by way of security for their administration, as it is provided in the title of *minors, their tutorship, curatorship, &c.*

lorsque le juge aura, dans les formes prescrites par la loi, autorisé ce tuteur ou curateur à hypothéquer spécialement quelques-uns de ses biens pour sûreté de son administration, ainsi qu'il est dit dans le titre *des mineurs, de leur tutelle, curatelle, &c.*

CC 1808. No corresponding article.

CN 1804, Art. 2141.

The case shall be the same with respect to the immovable property of the tutor when the relations, in family meeting, are of opinion that recording shall take place only upon certain immovables.

Il en sera de même pour les immeubles du tuteur lorsque les parents, en conseil de famille, auront été d'avis qu'il ne soit pris d'inscription que sur certains immeubles.

ART. 3335. In the cases specified in the two preceding articles, the husband, tutor, curator, and undertutor need only demand that the inscription on record shall be made for the immovables specially mortgaged.

RCC—50, 278, 324, 331, 335, 415, 3288, 3320, 3329 *et seq.*, 3333, 3334, 3336, 3342 *et seq.*, 3366, 3370. Acts 1908, No. 202; 1916, No. 106; 1920, No. 223, §5. RS—359 (as am. by Acts 1873, No. 68; 1877, No. 15; 1888, No. 75); 2402.

RCC 1870, Art. 3335. (Same as Art. 3335 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3307. (Projet, p. 388. Addition † adopted; no comment)

In the cases specified in the two preceding articles, the husband, tutor, curator, subrogated tutor and curator *ad lites*, need only demand that the inscription on record shall be made for the immovables specially mortgaged.

Dans les cas des deux articles précédents, le mari, le tuteur, le curateur, le subrogé tuteur et le curateur aux causes, ne seront tenus de requérir inscription que sur les immeubles spécialement hypothéqués.

CC 1808. No corresponding article.

CN 1804, Art. 2142.

In the cases specified in the two preceding articles, the husband, tutor and undertutor, need only demand that the inscription on record shall be made for the immovables indicated.

Dans le cas des deux articles précédents, le mari, le tuteur et le subrogé tuteur, ne seront tenus de requérir inscription que sur les immeubles indiqués.

ART. 3336. If the mortgage has not been restricted at the time of appointing the tutor or curator, and if it be notorious that it exceeds the amount in which it is necessary for him to give security, it shall, at his request, be restricted to certain immovables which he shall point out, provided they are thought sufficient to afford a complete guarantee.

RCC—50, 278, 318, 320 *et seq.*, 331, 415, 3335, 3337, 3338.

RCC 1870, Art. 3336.
Same as above.

CC 1825, Art. 3308. (Projet, p. 388. Addition adopted; no comment)
Same as above.

Lorsque l'hypothèque n'aura pas été restreinte lors de la nomination du tuteur ou curateur, il pourra, dans le cas où l'hypothèque générale sur ses

biens excéderait notoirement les sûretés suffisantes pour sa gestion, demander que cette hypothèque soit restreinte à de certains immeubles qu'il indiquera, s'ils sont jugés suffisants pour opérer une pleine garantie.

CC 1808. No corresponding article.

CN 1804, Art. 2143, par. 1.

If the mortgage has not been restricted by the act appointing the tutor, and if it be notorious that it exceeds the amount in which it is necessary for him to give security, it shall, at his request, be restricted to immovables sufficient to afford a complete guarantee in favor of the minor.

Lorsque l'hypothèque n'aura pas été restreinte par l'acte de nomination du tuteur, celui-ci pourra, dans le cas où l'hypothèque générale sur ses immeubles excéderait notoirement les sûretés suffisantes pour sa gestion, demander que cette hypothèque soit restreinte aux immeubles suffisants pour opérer une pleine garantie en faveur du mineur.

ART. 3337. This request shall be made as in opposition to the undertutor of a minor, the undercurator of an interdicted person, or curator *ad hoc* appointed by the court for the absent person, and the judge shall receive the special mortgage offered if he thinks it sufficient, and with the advice of the family meeting in the case of a minor or person under interdiction.

RCC—50, 275 *et seq.*, 281 *et seq.*, 324, 331, 406 *et seq.*, 415, 3331, 3336, 3370. CP—116, 963, 964. Acts 1920, No. 110 (as am. by 1926, No. 319); 1934, No. 47 (as am. by 1935, E.S., No. 18).

RCC 1870, Art. 3337.

(Same as Art. 3337 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3309.

(Projet, p. 389. Addition § adopted; no comment)

This request shall be made as in opposition to the subrogated tutor, or the curator *ad lites* of a minor, or against a curator *ad hoc* appointed by the court for an interdicted or absent person, and the judge shall receive the special mortgage offered, if he thinks it sufficient, and with the advice of the family meeting, in the case of a minor or person under interdiction.

Cette demande sera formée contre le subrogé tuteur ou le curateur aux causes des mineurs, ou contre un curateur *ad hoc* nommé par la cour à l'interdit ou à l'absent, et le juge recevra l'hypothèque spéciale qui est offerte, s'il la croit suffisante, d'après l'avis de l'assemblée de famille, lorsqu'il s'agira d'un mineur ou d'un interdit.

CC 1808. No corresponding article.

CN 1804, Art. 2143, par. 2.

The request shall be made as in opposition to the undertutor, and it ought be preceded by the assent of a family meeting.

La demande sera formée contre le subrogé tuteur, et elle devra être précédée d'un avis de famille.

ART. 3338. The husband, also, with the consent of his wife, if she be of age, may demand that the general mortgage on all his immovables on account of the dowry and other claims enjoying the same right, shall be restricted to the immovables which he shall indicate and which he shall offer to mortgage specially for the preservation of his wife's right.

RCC—281 *et seq.*, 1790, 2376 *et seq.*, 2390, 3288, 3319, 3333, 3336, 3339, 3340, 3370. RS—1707, 2430.

RCC 1870, Art. 3338.

Same as above.

CC 1825, Art. 3310.

(Projet, p. 389. Addition adopted; no comment)

The husband also, with the consent of his wife, if she be of age, may demand that the general mortgage on all his immoveables and slaves, on account of the dower* and other claims enjoying the same right, shall be restricted to the immoveables which he shall indicate, and which he shall offer to mortgage specially for the preservation of his wife's rights. (Similar to Acts 1824, p. 164, §9)

Pourra également le mari, du consentement de sa femme, si elle est majeure, demander que l'hypothèque générale sur tous ses immeubles et ses esclaves, pour raison de la dot* et autres répétitions qui jouissent de ce droit, soit restreinte aux immeubles qu'il indiquera, et qu'il offrira d'hypothéquer spécialement pour la conservation entière des droits de sa femme. (Similar to Acts 1824, p. 165, §9)

CC 1808. No corresponding article.**CN 1804, Art. 2144.**

The husband likewise, with the consent of his wife, and after having secured the assent of her four nearest relations assembled in family meeting, may demand that the general mortgage on all his immovables on account of the dowry, claims and marriage settlements, be restricted to immovables sufficient for the preservation of the wife's rights.

Pourra pareillement le mari, du consentement de sa femme, et après avoir pris l'avis des quatre plus proches parens d'icelle réunis en assemblée de famille, demander que l'hypothèque générale sur tous ses immeubles, pour raison de la dot, des reprises et conventions matrimoniales, soit restreinte aux immeubles suffisans pour la conservation entière des droits de la femme.

*Note error in English translation of French text; "dower" should be "dowry."

ART. 3339. The judge to whom this demand is made may authorize the husband to give this special mortgage, if he thinks it sufficient, with the assent of five of the nearest relations of the wife, assembled in family meeting.

RCC—281 *et seq.*, 2378 *et seq.*, 3338, 3340, 3370. Acts 1921, No. 34; 1922, No. 31; 1928, No. 283; 1934, No. 47 (as am. by 1935, 2E.S., No. 18). RS—1100, 1707, 2430.

RCC 1870, Art. 3339.

Same as above.

CC 1825, Art. 3311.

(Projet, p. 389. Addition adopted; no comment)

Same as above; but comma (,) after "judge", and after "made." (In conformity with Acts 1824, p. 164, §9)

Le juge, à qui cette demande sera faite, pourra autoriser le mari à donner cette hypothèque spéciale, s'il la croit suffisante d'après l'avis de cinq des plus proches parens de la femme réunis en assemblée de famille. (In conformity with Acts 1824, p. 165, §9)

CC 1808. No corresponding article.**CN 1804, Art. 2144.**

Quoted under RCC 1870, Art. 3338, above.

ART. 3340. If the wife be a minor, the judge may still grant the authority, provided it be with the assent of a family meeting composed as in the preceding article, and of a curator *ad hoc* appointed to the wife.

RCC—281 *et seq.*, 2378 *et seq.*, 3338, 3339, 3370. RS—1708, 2431.

RCC 1870, Art. 3340.

Same as above.

CC 1825, Art. 3312.

(Projet, p. 389. Addition adopted; no comment)

Same as above; but comma (,) after "meeting." (Similar to Acts 1824, p. 164, §10)

Si la femme est mineure, le juge pourra également accorder cette autorisation, pourvu que ce soit de l'avis d'une assemblée de famille, composée ainsi qu'il est dit en l'article précédent, et avec le consentement d'un curateur *ad hoc* qu'il nommera à la femme. (Similar to Acts 1824, p. 165, §10)

CC 1808. No corresponding article.**CN 1804.** No corresponding article.

ART. 3341. In all cases where the judge restricts the mortgage to certain immovables, the records or inscriptions made on the other property shall be erased.

RCC—320 *et seq.*, 325, 415, 2377, 2378, 3330, 3333 *et seq.*, 3348, 3370, 3371 *et seq.*, 3394. Acts 1920, No. 223, §5; 1922, No. 31, §§3, 5. RS—359 (as am. by Acts 1873, No. 68; 1877, No. 15; 1888, No. 75).

RCC 1870, Art. 3341.

Same as above.

CC 1825, Art. 3313.

(Projet, p. 389. Addition adopted; no comment)

Same as above; but comma (,) after "property."

Dans tous les cas où le juge prononcera la réduction de l'hypothèque à certains immeubles, les inscriptions prises sur tous les autres biens seront rayées.

CC 1808. No corresponding article.**CN 1804, Art. 2145, par. 2.**

In the case where the court restricts the mortgage to certain immovables, the records or inscriptions made on all others shall be erased.

Dans le cas où le tribunal prononcera la réduction de l'hypothèque à certains immeubles, les inscriptions prises sur tous les autres seront rayées.

Chapter 2—OF INSCRIPTION OF MORTGAGES

Section 1—OF THE MODE AND EFFECT OF RECORDING MORTGAGES

ART. 3342.* Conventional mortgage is acquired only by consent of the parties, and judicial and legal mortgages only by the effect of a judgment or by operation of law.

But these mortgages are only allowed to prejudice third persons** when they have been publicly inscribed on records kept for that purpose and in the manner hereafter directed.

RCC—1766, 1779, 2242, 2251 *et seq.*, 3283, 3286 *et seq.*, 3290, 3301, 3311, 3321, 3322, 3323, 3325, 3326, 3329, 3343 *et seq.*, 3348 *et seq.*, 3357 *et seq.*, 3361, 3364 *et seq.*, 3370, 3386, 3388, 3397, 3399. Acts 1869, No. 95; 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §§7, 8; 1914, No. 169; 1914, No. 176, §7; 1916, No. 133; 1917, No. 3; 1918, No. 190; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1924, No. 7; 1926, No. 186; 1926, No. 236, §2; 1928, No. 249, §§7, 11; 1934, No. 114; 1934, No. 199; 1936, No. 255. RS—2362, 2428, 2513, 3080, 3082, 3083, 3988. Const. 1898, Art. 188; 1921, XIX, 19.

RCC 1870, Art. 3342.

Same as above.

CC 1825, Art. 3314.

(Projet, p. 389. Amendment ‡ adopted; comment by redactors)

Same as above; but semicolon (;) after "parties"; comma (,) after "legal mortgages", after "judgment", after "persons", and after "purpose."

L'hypothèque conventionnelle est acquise par le seul consentement des parties, et la judiciaire et la légale par le seul effet du jugement ou de la loi.

Néanmoins ces hypothèques ne peuvent préjudicier aux tiers qui les ont ignorées,** qu'autant qu'elles ont été rendues publiques par leur inscription dans les registres tenus à cet effet, et de la manière qui est ci-après prescrite.

CC 1808, p. 454, Art. 14.

Conventional or judicial mortgages cannot operate against a third person, except from the day of their being entered in the office of the register of mortgages, in the manner and form hereafter directed.

-p. 455, Art. 14.

L'hypothèque conventionnelle et judiciaire ne peuvent préjudicier au tiers, que de la date de leur inscription au bureau conservatoire des hypothèques, de la manière et dans la forme ci-après prescrites.

-p. 464, Art. 52.

Though it is a rule that the conventional mortgage is acquired by the sole consent of the parties, and the judicial and legal mortgages by the judgment or law which grants it, nevertheless, in order to protect the good faith of third persons who may be ignorant of such covenants and to prevent fraud, law directs that the conventional and judicial mortgages, shall be recorded or entered in a public *folio* book kept for that purpose in the city of New-Orleans for the whole territory.***

-p. 465, Art. 52.

Quoiqu'il soit de principe, que l'hypothèque conventionnelle est acquise par le seul consentement des parties, et la judiciaire et la légale par le jugement ou la loi qui l'accordent, néanmoins, afin de protéger la bonne foi des tiers, qui pourraient ignorer de pareilles conventions, et éviter les fraudes, la loi veut, que les hypothèques conventionnelles et judiciaires soient inscrites dans un registre public, tenu à cet effet dans la ville de la Nouvelle-Orléans, ainsi qu'il sera ci-après prescrit.***

CN 1804. No corresponding article.

*In connection with this article see Acts 1910, No. 215; Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

**English translation of French text incomplete; should include "who are ignorant of them."

***Note error in English translation of French text; "for the whole territory" should be "as is hereafter directed."

ART. 3343. By the words *third persons* used in the foregoing article, are to be understood all persons who are not parties to the act or to the judgment on which the mortgage is founded.

RCC—879 *et seq.*, 977, 1557, 2234, 2251 *et seq.*, 2255 *et seq.*, 3269, 3305, 3342, 3344, 3370, 3556(23, 28, 31, 32).

RCC 1870, Art. 3343.

(Same as Art. 3343 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3315.

(Projet, p. 389. Addition ‡ adopted; no comment)

By the words *third persons* used in the foregoing article, are to be understood all persons who are not parties to the act or to the judgment on which the mortgage is founded, and who have dealt with the debtor either in ignorance or before the existence of this right.

On entend par le mot *tiers*, tel qu'il est employé dans l'article précédent, tous ceux qui n'ont pas été parties dans l'acte ou dans le jugement d'où dérive l'hypothèque, et qui ont traité avec le débiteur dans l'ignorance de ce droit, ou antérieurement à sa création.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3344. Consequently, neither the contracting parties nor their heirs, nor those who were witnesses to the act by which the mortgage was stipulated, can take advantage of the non-inscription of the mortgage.

RCC—879 *et seq.*, 977, 1557, 2234, 2251 *et seq.*, 2255 *et seq.*, 3305, 3342, 3343, 3369, 3370, 3556(23, 28, 31, 32).

RCC 1870, Art. 3344.

Same as above.

CC 1825, Art. 3316.

Same as above.

(Projet, p. 390. Addition adopted; no comment)

En conséquence, ni les parties contractantes ni leurs héritiers, ni ceux qui ont été témoins à l'acte par lequel l'hypothèque a été stipulée, ne peuvent se prévaloir du défaut d'inscription de cette hypothèque.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3345. All mortgages, whether conventional, legal or judicial, are required to be recorded in the manner hereafter provided.

RCC—2251 *et seq.*, 2255 *et seq.*, 2264 *et seq.*, 3283, 3286 *et seq.*, 3290, 3311, 3321, 3329, 3342, 3346 *et seq.*, 3366, 3370, 3388, 3397, 3399. CP—545. Acts 1908, No. 254; 1914, No. 176, §7; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1934, No. 114.

RCC 1870, Art. 3345.

Same as above.

CC 1825, Art. 3317.

Same as above.

(Projet, p. 390. Addition adopted; no comment)

Toutes les hypothèques, soit conventionnelles, soit légales, soit judiciaires, sont sujettes à inscription, de la manière qui est ci-après prescrite.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3346. The inscription of mortgages only binds the property of the debtor, when it has been made in the office of mortgages for the parish where the property lies.

If the debtor has immovable property lying in more than one parish, the inscription ought to be made in the office of mortgages for each of them.

RCC—50, 319, 323, 324, 334, 415, 2264 *et seq.*, 3305, 3329 *et seq.*, 3342, 3345, 3347, 3348, 3350, 3351, 3355, 3358. Acts 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §§7, 8; 1914, No. 169; 1914, No. 176, §7; 1916, No. 133; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1924, No. 7; 1926, No. 236, §2; 1934, No. 114; 1934, No. 199. RS—2428. Const. 1921, XIX, 19.

RCC 1870, Art. 3346.

Same as above.

(Same as Art. 3346 of Proposed Revision of 1869)

CC 1825, Art. 3318.

The inscription of mortgages only binds the property of the debtor, when it has been made, with regard to im-

(Projet, p. 390. Addition adopted; no comment)

Les inscriptions des hypothèques ne peuvent affecter les biens du débiteur, qu'autant qu'elles ont été faites, savoir:

moveables, in the office of mortgages for the parish where the property lies; and with regard to slaves, in the office of mortgages for the parish where the debtor has his domicil or usual residence.

Par. 2 same as par. 2, above. (In conformity with Acts 1810, Chap. XXV, and Acts 1812-13, p. 206, §1)

Pour les immeubles, au bureau des hypothèques de la paroisse où ces biens sont situés;

Pour les esclaves, au bureau des hypothèques de la paroisse où le débiteur a son domicile ou sa résidence ordinaire.

Si le débiteur a des immeubles situés dans deux ou plusieurs paroisses, l'inscription doit se faire au bureau des hypothèques de chacune de ces paroisses. (In conformity with Acts 1810, Chap. XXV, and Acts 1812-13, p. 207, §1)

CC 1808. No corresponding article.

CN 1804, Art. 2146, par. 1, sentence 1.

The inscription is made in the office for the preservation of mortgages in the district in which the property subject to the privilege or mortgage lies.

Les inscriptions se font au bureau de conservation des hypothèques dans l'arrondissement duquel sont situés les biens soumis au privilège ou à l'hypothèque.

ART. 3347.* No mortgage or privilege shall hereafter affect third parties, unless recorded in the parish where the property to be affected is situated.

RCC—50, 319, 323 *et seq.*, 334, 415, 2264 *et seq.*, 3182 *et seq.*, 3186, 3249, 3271, 3273, 3274, 3329 *et seq.*, 3342, 3346, 3348 *et seq.*, 3358. Acts 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §§7, 8; 1914, No. 169; 1914, No. 176, §7; 1916, No. 133; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1924, No. 7; 1926, No. 236, §2; 1934, No. 114; 1934, No. 199. RS—2428, 3080. Const. 1921, XIX, 19.

RCC 1870, Art. 3347.

Same as above.

(Same as Art. 3347 of Proposed Revision of 1869; same as La. Const. of 1868, Art. 123, sentence 1, clause 2)

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*In connection with this article see Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

ART. 3348. Any person entitled to a mortgage or privilege on the property of another person, must cause the evidence of such mortgage or privilege to be recorded in the mortgage book of the parish where the property is situated.

If the instrument on which the mortgage or privilege is based be an authentic act, a copy thereof shall be recorded; if it be an act under private signature, promissory note or other written instrument, it must be proved up and recorded in the manner required for acts under private signature.

If there be no written instrument, the person claiming the mortgage or privilege, his agent, or some person having knowledge of the facts, must make affidavit of all the facts on which such mortgage or privilege is based, including the amount of the debt secured by the mortgage or privilege; and this affidavit must be recorded in the mortgage book.

In all cases of special privileges the property subject to such privileges must also be described.

RCC—2234 *et seq.*, 2240 *et seq.*, 2251 *et seq.*, 2255 *et seq.*, 2264 *et seq.*, 2267 *et seq.*, 3182 *et seq.*, 3186, 3271 *et seq.*, 3288, 3305, 3306, 3309, 3313 *et seq.*, 3322, 3331, 3332, 3342, 3346, 3347, 3349 *et seq.*, 3370, 3373, 3386, 3388 *et seq.* Acts 1869, No. 95; 1898, No. 164; 1908, No. 254; 1910, No. 215; 1914, No. 176, §§2, 3; 1916, No. 255; 1916, No. 256; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1928, E.S., No. 7, §17; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285); 1934, No. 114. RS—597, 2388, 2517, 3080, 3093, 3146.

RCC 1870, Art. 3348. (Same as Art. 3348 of Proposed Revision of 1869; Same as above. similar to Acts 1869, No. 95, §8 [RS §§2388, 2517, 3093])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3349. To preserve the legal mortgage or privilege existing in favor of a married woman, it shall be the duty of such married woman, or any person for her, to cause to be recorded in the mortgage book of the parish where the property is situated the evidence of her mortgage or privilege. If such evidence be in writing, it shall be recorded in the manner required by law; if it be not in writing, then a written statement, under oath, made by the married woman, her husband, or any other person having knowledge of the facts, setting forth the amount due to the wife, and detailing all the facts and circumstances on which her claim is based, shall be recorded.

RCC—2264 *et seq.*, 2376, 2390, 3252, 3254, 3319, 3330, 3332 *et seq.*, 3342 *et seq.*, 3346 *et seq.*, 3357, 3370, 3388. CP—105. Acts 1869, No. 95; 1924, No. 106, §5. RS—2381, 2886, 3086, 3988.

RCC 1870, Art. 3349. (Same as Art. 3349 of Proposed Revision of 1869; Same as above. similar to Acts 1869, No. 95, §1 [RS §§2381, 3086])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3350. Before fathers and mothers, who by law are entitled to the usufruct of property belonging to their minor children, shall be allowed to take possession of such property and enjoy the fruits and revenues thereof, they shall cause an inventory and appraisalment to be made of such property, and cause the same to be recorded in the mortgage book of every parish in the State where they or either of them have immovable property.

RCC—223 *et seq.*, 251, 560, 916, 3329, 3342 *et seq.*, 3346 *et seq.*, 3357. Acts 1869, No. 95; 1920, No. 223 (as am. by 1924, No. 68); 1924, No. 106, §5. RS—2367, 2392, 3097, 3873.

RCC 1870, Art. 3350. (Same as Art. 3350 of Proposed Revision of 1869; Same as above. similar to Acts 1869, No. 95, §12 [RS §§2392, 3097])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3351.* Whenever any person shall apply to be recognized, confirmed or appointed as tutor, or shall have been recommended by a family meeting, the judge shall order, and it shall be the duty of such applicant to cause a true and faithful inventory to be made of the movable and immovable property, credits, deeds and papers belonging to the minor, and to cause the said property to be valued by two appraisers, appointed by the judge, and duly sworn.

This inventory shall include the property situated out of the parish, as well as that within the parish where the appointment is to be made.

After the inventory has been completed, the judge shall fix the amount of the bond which the tutor is bound to give.

This bond must be recorded in the mortgage book of the parish in which the tutor resides, and a certificate to that effect, signed by the recorder of mortgages, must be presented to the judge before he can make the appointment, or authorize letters of tutorship to be issued.

In the several cases in which the tutor is not required by law to give bond, it shall be the duty of the clerk of the district court of the parish in which the appointment is to be made to furnish a certificate of the amount of the minor's property, according to the inventory on file in his office. This certificate must be recorded in the mortgage book of the parish in which the tutor resides; and a certificate to that effect, signed by the recorder of mortgages, must be presented to the judge before he can make the appointment, or authorize letters of tutorship to be issued.

The recording of the bond, or certificate of the clerk, as herein provided, shall operate as a legal mortgage in favor of the minor for the amount therein stated, on all the immovable property of the tutor.

The tutor shall, within thirty days after his appointment, cause such bond or certificate to be inscribed in the mortgage book of every other parish in the State in which he owns immovable property.

It shall be the duty of the undertutor to see that these inscriptions are made according to law.

RCC—249, 251, 271, 278, 304, 316 *et seq.*, 3311 *et seq.*, 3314, 3330 *et seq.*, 3342 *et seq.*, 3346 *et seq.*, 3352, 3354, 3357, 3370. Acts 1869, No. 95, §2; 1920, No. 223 (as am. by 1924, No. 68, and 1926, No. 283); 1922, No. 31; 1924, No. 106, §5. RS—1100, 2360, 2382, 3867.

RCC 1870, Art. 3351.

Same as above.

(Same as Art. 3351 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §2 [RS §§2382, 3087, 3867])

CC 1825. No corresponding article.*

CC 1808. No corresponding article.*

CN 1804. No corresponding article.*

*RCC 1870, Art. 3351, pars. 1 and 2, same as RCC 1870, Art. 316, pars. 1 and 2; par. 3, same as RCC 1870, Art. 317; par. 4, same as RCC 1870, Art. 319; par. 5, same as RCC 1870, Art. 321; par. 6, same as RCC 1870, Art. 322; par. 7, same as RCC 1870, Art. 323; par. 8, same as RCC 1870, Art. 324.

ART. 3352. The tutor's bond, or the clerk's certificate, as the case may be, recorded as provided in the preceding article, to preserve the mortgage against the natural tutrix, shall operate as a mortgage on the property, present and future, of the new husband in favor of the minor children of a previous marriage, when his wife has not been continued in the tutorship.

RCC—254, 255, 318 *et seq.*, 3316, 3320, 3329, 3330, 3351, 3357. Acts 1922, No. 31; 1924, No. 106, §5. RS—1100, 2362, 2385, 3090, 3869.

RCC 1870, Art. 3352. (Same as Art. 3352 of Proposed Revision of 1869; Same as above. similar to Acts 1869, No. 95, §5 [RS §§2385, 3090])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3353. When immovable property has been adjudicated to the father or mother of a minor, the act of adjudication must be recorded in the mortgage book of the parish where the property is situated.

RCC—343, 344, 3317, 3346 *et seq.*, 3357. Acts 1916, No. 23; 1924, No. 106, §5; 1928, No. 71. RS—2363, 2386, 3091, 3870.

RCC 1870, Art. 3353. (Same as Art. 3353 of Proposed Revision of 1869; Same as above. similar to Acts 1869, No. 95, §6 [RS §§2386, 3091])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3354. Before any person shall be appointed curator of a person interdicted or absent, the bond required to be given in order to obtain the appointment must be recorded in the manner required for tutor's bonds in article 3351, and a relation or friend of such person may cause such bond to be recorded.

RCC—49, 50, 318 *et seq.*, 415, 3314, 3330, 3332, 3351, 3357. Acts 1922, No. 31; 1924, No. 106, §5. RS—1100, 2383, 3088.

RCC 1870, Art. 3354. (Same as Art. 3354 of Proposed Revision of 1869; Same as above. similar to Acts 1869, No. 95, §3 [RS §§2383, 3088])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3355. To preserve the legal mortgage against a person who, without having been appointed tutor of a minor, or curator of an interdicted or absent person, interferes in the administration of the property of such minor, interdicted or absent person, it shall be lawful for any person to record in the mortgage book of the parish where such intermeddler resides, and also in any parish where he has immovable property, the inventory, if there be any, of the property belonging to such minor, interdicted or absent person, or other writ-

ten evidence of such property; and if there be no written evidence thereof, a statement under oath of its value. In all cases, the person making the above record must state on oath the name of the intermeddler, and that he has actually interfered in the administration of the property belonging to such minor, interdicted or absent person. All expenses incurred shall be paid by such minor, interdicted or absent person.

RCC—3315, 3330 *et seq.*, 3342, 3346, 3347, 3357. Acts 1869, No. 95; 1924, No. 106, §5. RS—1101, 2361, 2384, 3089, 3868.

RCC 1870, Art. 3355. (Same as Art. 3355 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §4 [RS §§2384, 3089])
Same as above.

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3356. To preserve the legal mortgage against the surviving husband or wife, or heirs, who have been invested by the inventory with the care of the property belonging to the community or succession, a certificate from the clerk of the court having jurisdiction, setting forth the amount of the inventory, shall be recorded in the mortgage book of the parish in which such party invested with the care of the property is domiciled. The clerk who grants the certificate must have it recorded. Any person may legally cause such record to be made.

RCC—916, 1105 *et seq.*, 1121, 1135, 2265, 3318, 3357. Acts 1869, No. 95, §7; 1924, No. 106, §5. RS—2364, 2387, 3092, 3871.

RCC 1870, Art. 3356. (Same as Art. 3356 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §7 [RS §§2381, 3092])
Same as above.

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3357. The recording of the instruments mentioned in the nine preceding articles, shall have the effect of preserving the mortgage or privilege; but they shall in no manner be evidence of the validity of the debt or claim, other than the law may award to acts of the kind when unrecorded.

RCC—1035 *et seq.*, 2275 *et seq.*, 2413, 3329, 3342 *et seq.*, 3348 *et seq.*, 3353, 3359, 3376. Acts 1869, No. 95, §10. RS—2365, 2390, 3095.

RCC 1870, Art. 3357. (Same as Art. 3357 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §10 [RS §§2390, 3095])
Same as above.

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3358.* The creditors, whose inscriptions have been made on the same day, possess a concurrent mortgage, and no distinction

is made between the inscription made in the morning and that made in the evening, even although the recording officer may have noted the difference.

RCC—2254, 2262, 2266, 3188, 3329, 3342, 3346, 3347, 3359 *et seq.*, 3388 *et seq.*, 3391 *et seq.*, 3467. Acts 1910, No. 215; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285). RS—2362.

RCC 1870, Art. 3358.

Same as above.

CC 1825, Art. 3321.

(Projet, p. 390. Amendment † adopted; no comment)

Same as above.

Tous les créanciers inscrits le même jour exercent en concurrence une hypothèque de la même date, sans distinction entre l'hypothèque [l'inscription] du matin et celle du soir, quand même cette différence serait marquée par l'officier qui tient le registre.

CC 1808, p. 470, Art. 79.

The creditors who have caused their titles to be recorded on the same day, have in concurrence a mortgage of one and the same date; no distinction being made between those recorded in the morning, and such as were recorded in the evening of the same day, even should the register have marked this difference.

-p. 471, Art. 79.

Tous les créanciers inscrits le même jour, exercent, en concurrence, une hypothèque de la même date, sans distinction entre l'inscription du matin et celle du soir, quand cette différence serait marquée par le conservateur.

CN 1804, Art. 2147.

Same as above.

Same as above; but no punctuation after "jour", after "exercent", or after "concurrence."

*In connection with this article see Acts 1910, No. 215.

ART. 3359. Mortgages given and inscribed within three months previous to the failure of the debtor, shall be declared null, as presumed to be given in fraud of other creditors, unless the person in whose favor the mortgage was granted shall prove that he paid, in obtaining it, a real and effective value at the moment of the contract.

RCC—1779, 1893 *et seq.*, 1970 *et seq.*, 1978 *et seq.*, 1984, 2262, 2266, 2288, 3093, 3342, 3357, 3360 *et seq.*

RCC 1870, Art. 3359.

Same as above.

CC 1825, Art. 3323.

(Projet, p. 391. Addition amended and adopted; comment by redactors)

Same as above; but comma (,) after "person", and after "granted." (Analogous to Acts 1817, p. 126, §24)

Les hypothèques, données et inscrites dans les trois mois avant l'ouverture de la faillite du débiteur, seront déclarées nulles, comme présumées faites en fraude des autres créanciers de ce débiteur, à moins que celui, en faveur duquel l'hypothèque a été consentie, ne prouve qu'il a donné pour l'obtenir une valeur réelle et effective au moment du contrat. (Analogous to Acts 1817, p. 127, §24)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3360. The word *fraud* used in the foregoing article means any unfair preference which the debtor may give to one of his creditors over the others, by selling or mortgaging to him a portion of his property for a debt* existing before the contract.

RCC—1779, 1893 *et seq.*, 1970, 1978 *et seq.*, 1983, 1984, 2262, 2266, 3093, 3359, 3361.

RCC 1870, Art. 3360.

Same as above.

CC 1825, Art. 3324.

Same as above; but comma (,) after “article.”

(Projet, p. 391. Addition ‡ adopted; no comment)

On entend par le mot *fraude*, employé dans l'article précédent, toute injuste préférence que le débiteur aurait voulu donner à l'un des [del ses créanciers sur les autres, en lui vendant, engageant ou hypothéquant quelques-uns de ses biens pour une dette ou obligation* antérieure au contrat.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include “or obligation.”

ART. 3361. The inscription of a judgment obtained against a debtor within ten days preceding his failure, shall have no effect against the other creditors of the debtor, if it appears, from the time at which the suit was commenced, and the manner in which it was conducted, that the debtor intended to favor the plaintiff, either by consenting that judgment should be rendered against him without the usual delays, or by not making a defense, or by confessing judgment when the cause admitted of contest.

RCC—1873 *et seq.*, 1970, 1978 *et seq.*, 2262, 2266, 3321 *et seq.*, 3329, 3342, 3359, 3360, 3362, 3556(11).

RCC 1870, Art. 3361.

Same as above.

CC 1825, Art. 3325.

Same as above; but comma (,) after “a judgment.”

(Projet, p. 391. Addition ‡ adopted; no comment)

L'inscription d'un jugement, qui aurait été obtenu contre un débiteur, dans les dix jours qui ont précédé sa faillite, ne produira aucun effet contre les autres créanciers du débiteur, s'il paraît, par l'époque où le procès a été intenté et la manière dont la procédure a été conduite, que ce débiteur a eu l'intention de favoriser le demandeur, soit en consentant que jugement fût rendu contre lui avant l'expiration des délais ordinaires, soit en ne faisant [faisant] point de défenses, ou en confessant jugement, lorsque la cause était susceptible de discussion.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3362. An inscription made after the failure or on the day preceding it, shall have no effect whatever against other creditors.

RCC—1779, 1873 *et seq.*, 2262, 2266, 3093, 3329, 3342, 3359, 3361 3556(11).

RCC 1870, Art. 3362.

Same as above.

CC 1825, Art. 3326.

Same as above.

(Projet, p. 391. Addition adopted; no comment)

L'inscription qui sera prise la veille même de la faillite ou depuis, ne produira aucun effet contre le autres créanciers.

CC 1808. No corresponding article.**CN 1804, Art. 2146, par. 1, sentence 2.**

It produces no effect if it is made within the delay during which acts done before the opening of bankruptcies are declared null.

Elles ne produisent aucun effet si elles sont prises dans le délai pendant lequel les actes faits avant l'ouverture des faillites sont déclarés nuls.

ART. 3363. If a succession, which is administered by a curator or beneficiary heir, is not sufficient to satisfy the creditors, an inscription made by one of them after it is opened shall have no effect against the others.

RCC--872 *et seq.*, 881, 883, 934 *et seq.*, 1113 *et seq.***RCC 1870, Art. 3363.**

Same as above.

CC 1825, Art. 3327.

Same as above; but comma (,) after "them", and after "opened."

(Projet, p. 391. Addition ‡ adopted; no comment)

Si une succession, qui est gérée par un curateur ou par un héritier bénéficiaire, se trouve n'avoir pas assez de biens pour payer ses créanciers, l'inscription prise par l'un d'eux depuis l'ouverture de la succession, n'aura pas d'effet contre les autres.

CC 1808. No corresponding article.**CN 1804, Art. 2146, par. 2.**

The same result obtains among the creditors of a succession, if the inscription has been made by one of them only since the opening of the succession, and in the case when the succession is accepted only under benefit of inventory.

Il en est de même entre les créanciers d'une succession, si l'inscription n'a été faite par l'un d'eux que depuis l'ouverture, et dans le cas où la succession n'est acceptée que par bénéfice d'inventaire.

ART. 3364. Every notary who shall pass an act of sale, mortgage or donation of an immovable, shall be bound to obtain from the office of mortgages of the place where the immovable is situated, a certificate declaring the privileges or mortgages which may be inscribed on the object of the contract, and to mention them in his act, under penalty of damages towards the party who may suffer by his neglect in that respect.

RCC—2257, 3182 *et seq.*, 3186, 3278, 3329, 3342, 3346 *et seq.*, 3369, 3393 *et seq.* CP—678. Acts 1888, No. 88; 1898, No. 170, §§74, 75; 1916, No. 256, §1; 1920, No. 142, §4. RS—449, 2394, 2404, 2424, 2513, 2514, 2519, 2528, 2529, 3160, 3161, 3180, 3395, 3615.

RCC 1870, Art. 3364.

Same as above.

(Same as Art. 3364 of Proposed Revision of 1869)

CC 1825, Art. 3328.

Every notary, who shall pass an act of sale, mortgage or donation of an

(Projet, p. 391. Addition adopted; no comment)

Tout notaire, qui passera un acte de vente, d'hypothèque ou de donation d'un

immoveable or slave, shall be bound to obtain from the office of mortgages of the place where the immoveable is situated, or where the seller, debtor, or donor has his domicile, if it be of a slave, a certificate declaring the privileges or mortgages which may be inscribed on the object of the contract, and to mention them in his act, under penalty of damages towards the party who may suffer by his neglect in that respect.

immeuble ou d'un esclave, sera tenu de lever au bureau des hypothèques du lieu de la situation de l'immeuble ou du domicile du vendeur, débiteur ou donateur, s'il s'agit d'un esclave, un certificat constatant les privilèges ou hypothèques qui peuvent être inscrits sur l'objet du contrat, et d'en faire mention dans son acte, à peine de tous dommages-intérêts envers la partie qui pourrait souffrir de sa négligence à cet égard.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3365. If a person who has given a mortgage on his property, takes advantage of the neglect to register the mortgage, and engages the same property afterwards to another person without informing him of the first mortgage, he shall be considered guilty of fraud, and* shall be subject to such damages towards the party suffering thereby as the nature of the case may require.

RCC—1847 *et seq.*, 1934, 3329, 3342 *et seq.*, 3370, 3397.

RCC 1870, Art. 3365.

Same as above.

CC 1825, Art. 3329.

(Projet, p. 391. Addition † adopted; no comment)

Same as above; but comma (,) after "a person", after "another person", and after "thereby."

Si quelqu'un, qui a donné une hypothèque sur ses biens, profite du défaut d'inscription [d'inscription] de cette hypothèque pour les affecter à une autre personne, sans la prévenir de l'existence de cette hypothèque, il sera censé coupable de fraude, et comme tel,* sujet à tels dommages-intérêts envers la partie qui souffrira de son dol, que la nature du cas pourra requérir.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "as such."

ART. 3366. To obtain an inscription of a public act or judgment, the creditor, either in person, or by an agent, shall present an authentic copy of the act or judgment to be recorded, to the register of mortgages of the place where the inscription is to be made.

RCC—2234, 2251 *et seq.*, 2255 *et seq.*, 2262, 2266, 2267 *et seq.*, 3305, 3342, 3345 *et seq.*, 3367, 3368, 3370. CP—545. RS—3080, 3082, 3083.

RCC 1870, Art. 3366.

Same as above.

CC 1825, Art. 3330.

(Projet, p. 392. Amendment adopted; no comment)

Same as above.

Pour opérer l'inscription, s'il s'agit d'un acte public ou d'un jugement, le créancier, soit par lui-même, soit par un tiers, doit présenter au conserva-

teur des hypothèques du lieu où il doit faire cette inscription, une copie authentique de l'acte ou du jugement qu'il veut faire enregistrer.

CC 1808, p. 466, Art. 63.

The creditor who wishes to have any act recorded, shall present either by himself or by a third person, to the register of mortgages, an authentic copy of the judgment or act from which the mortgage originates, or of the donation to be recorded.

-p. 467, Art. 63.

Pour opérer l'inscription, le créancier représentera, soit par lui-même, soit par un tiers, au conservateur des hypothèques, une expédition authentique du jugement ou de l'acte qui donne naissance à l'hypothèque, ou de la donation qu'il voudra faire inscrire.

CN 1804, Art. 2148, par. 1.

The creditor who wishes to have any act recorded shall present, either by himself, or by a third person, to the register of mortgages, the original or an authentic copy of the judgment or act from which the privilege or mortgage originates.

Pour opérer l'inscription, le créancier représente, soit par lui-même, soit par un tiers, au conservateur des hypothèques, l'original en brevet ou une expédition authentique du jugement ou de l'acte qui donne naissance au privilège ou à l'hypothèque.

ART. 3367. If it be an act under private signature bearing a mortgage, the creditor can only have it registered when it has been acknowledged by the mortgagor, or proved by the oath of one of the subscribing witnesses, unless the register be acquainted with the signature of the parties, and shall agree, on his own responsibility, to make the inscription, on the original act being presented to him.

RCC—2234, 2240 *et seq.*, 2253, 2261, 2262, 2267 *et seq.*, 3305, 3348, 3366, 3368, 3375. Acts 1916, No. 256; 1920, No. 212, §1. RS—3146, 3348.

RCC 1870, Art. 3367.

(Same as Art. 3367 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3331.

(Projet, p. 392. Addition adopted; no comment)

If it be an act under private signature bearing a mortgage, the creditor can only have it registered by presenting an authentic copy of the registry made in the office of a notary public, unless the register be acquainted with the signature of the parties, and shall agree, on his own responsibility, to make the inscription, on the original act being presented to him.

S'il s'agit d'un acte sous signature privée portant hypothèque, le créancier ne pourra le faire inscrire que sur la représentation d'une copie authentique de l'enregistrement qu'il aura fait faire de cet acte en l'étude d'un notaire public, à moins que le conservateur ne connaisse la signature des parties, et ne consente, sous sa responsabilité, à faire cette inscription sur la représentation de l'original de cet acte.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3368. The inscription of acts on which privileges are founded, when they are subjected to this formality, as also donations, shall be made in the same manner as that of mortgages.

RCC—1554, 1557, 2251 *et seq.*, 2255 *et seq.*, 2262, 2266, 3186, 3271 *et seq.*, 3329, 3342, 3345 *et seq.*, 3366, 3367. Acts 1916, No. 256. RS—3082, 3146.

RCC 1870, Art. 3368.

Same as above.

CC 1825, Art. 3332.

(Projet, p. 392. Substitution amended in English text and adopted; no comment)

Same as above; but comma (,) after "acts."

L'inscription des actes d'où dérivent des privilèges, lorsqu'ils sont sujets à cette formalité, ainsi que celle des donations, se fera de la même manière que celle des hypothèques.

CC 1808, p. 464, Art. 54.

Privileges on moveables as well as on immoveables and legal mortgages, have their effect against third persons, without any necessity of being recorded.

-p. 465, Art. 54.

Les privilèges, tant sur les meubles que sur les immeubles et les hypothèques [hypothèques] légales, ont effet contre les tiers, sans avoir besoin d'être inscrites.

CN 1804. No corresponding article.

ART. 3369. The registry preserves the evidence of mortgages and privileges during 10 years, reckoning from the day of its date. In all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations, the whole or any part of which matures more than nine years from date of the obligation, the registry preserves the evidence of such mortgages and privileges until six years after the date of the maturity of the last maturing note, bond or other obligation as fixed by the original instruments from which they sprung or with which they are identified. Provided, however, that the recordation in the mortgage records in which the original instrument is recorded of a written agreement by authentic act, or by private act duly acknowledged between the owner or owners of the indebtedness and the owner or owners of the property, extending the maturity of the last maturing note, bond or other obligation, as fixed by the original instrument, shall have the effect of preserving the evidence of such original mortgage until six years after the maturity of the last maturing note, bond or other obligation as fixed by the supplemental written agreement. On the recordation of such a written agreement, the recorder of mortgages shall make marginal note on the inscription of the original instrument stating that the maturity has been extended and giving the book and folio number in which the supplemental agreement, extending the said maturity has been recorded.

The effect of the registry ceases in all cases, even against the contracting parties if the inscriptions have not been renewed within the periods of time above provided in the manner in which they were first made; and in all cases the reinscription of the mortgages and privileges shall preserve their effect for 10 years from the date of the timely renewal as above provided. The effect of the registry of mortgages to which husbands are subject for the dowry and other claims of wives ceases in all cases even against the husband or his heirs, if the inscriptions have not been renewed within 10 years after the dissolution of the marriage.

The effect of the registry with regard to the mortgages of tutors and curators in favor of minors, interdicted and absent persons whose estates they administer, ceases in all cases, even against the tutor and curator, as follows; in cases of minors, four years after the majority of the minor, in cases of interdicted persons, four years after the

death of the interdict or the termination of the interdiction, and in cases of absent persons, ten years after the termination of the curatorship.

The reinscription of the mortgages is dispensed with in certain cases provided for by special laws. (As amended by Acts 1940, No. 247)

RCC—3273, 3314 *et seq.*, 3320, 3328, 3330 *et seq.*, 3342 *et seq.*, 3368, 3411, 3544, 3457. Acts 1842, No. 96; 1843, No. 87; 1914, No. 176, §5; 1917, E.S., No. 23; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1918, No. 227; 1924, No. 50; 1932, No. 140, §50; 1938, No. 322, §1; 1938, No. 337, §8; 1940, No. 95, §51; 1940, No. 247, §1. RS—450, 2376, 2399, 2400, 2428, 3140.

Art. 3369.

The registry preserves the evidence of* mortgages and privileges during ten years, reckoning from the day of its date. In all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations, the whole or any part of which matures more than nine years from date of the obligation, the registry preserves the evidence of such mortgages and privileges until one year after the date of the maturity of the last maturing note, bond or other obligation as fixed by the original instruments from which they sprung or with which they are identified.

The effect of the registry ceases in all cases, even against the contracting parties if the inscriptions have not been renewed within the respective periods of time above provided, in the manner in which they were first made; and in all cases the reinscription of the mortgages and privileges shall preserve their effect for ten years from the date of the timely renewal as above provided.

Par. 3 same as par. 2, sentence 2, above; but comma (,) after "cases."

Par. 4 same as par. 3, above; but colon (:) after "follows."

The reinscription of mortgages is dispensed with in certain cases provided for by special laws. (As amended by Acts 1938, No. 322)

Art. 3369.

The registry preserves the evidence of* mortgages and privileges during ten years, reckoning from the day of its date. In all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations, the whole or any part of which matures more than nine years from the date of the obligation, the registry preserves the evidence of such mortgages and privileges until one year after the date of maturity of the last maturing note, bond or other obligation as fixed by the original instruments from which they sprung or with which they are identified; and the Recorder of Mortgages in each Parish shall record all such mortgages and privileges in a special book and shall provide a special index therefor.

Par. 2 same as par. 2, above; but comma (,) after "parties", and after "and in all cases."

None of the foregoing provisions of this article shall obtain with regard to the mortgages to which husbands are subject for the dowry and other claims of wives and tutors and curators towards minors, interdicted and absent persons whose estates they administer.

The reinscription of mortgages is also dispensed with in certain cases provided for by special laws. (As amended by Acts 1924, No. 50)

Art. 3369.

The registry preserves the evidence of* mortgages and privileges during ten years, reckoning from the day of its date; its effect ceases, even against the contracting parties, if the inscriptions have not been renewed before the expiration of this time, in the manner in which they were first made; provided, that in all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations maturing after ten years, this renewal of the original inscription shall be made within three months from the expiration of the last maturing notes, bonds or other obligations, as fixed in the original instruments from which they sprung or with which they are identified. In all cases the reinscription of the mortgages and privileges shall preserve their effect for ten years from the date of the timely renewal as above provided.

But the provisions of the above paragraph shall not obtain with regard to the mortgages to which husbands are subject for the dowry and other claims of wives and tutors and curators towards minors, interdicted and absent persons whose estates they administer.

Par. 3 same as par. 4, above. (As amended by Acts 1918, No. 227)

RCC 1870, Art. 3369.

The registry preserves the evidence of* mortgages and privileges during ten years, reckoning from the day of its date; its effect ceases, even against the contracting parties, if the inscriptions have not been renewed before the expiration of this time, in the manner in which they were first made.

But this rule [rule] does not obtain with regard to the mortgages to which husbands are subjected for the dowry and other claims of wives, and tutors and curators towards minors, interdicted and absent persons, whose estates they administer.

Par. 3 same as par. 3, above.

CC 1825, Art. 3333.

(Projet, p. 392. Addition adopted; no comment)

The registry preserves the evidence of* mortgages and privileges, during ten years, reckoning from the day of their date: their effect ceases, even against the contracting parties, if the inscriptions have not been renewed before the expiration of this time, in the manner in which they were first made.

But this rule does not take place with regard to the mortgages to which husbands are subjected for the dower** and other claims of wives, and tutors and curators towards minors, interdicted and absent persons, whose estates they administer.

Les inscriptions conservent* l'hypothèque et le privilège pendant dix années à compter du jour de leur date; leur effet cesse, même contre les parties contractantes, si ces inscriptions n'ont été renouvelées [renouvelées], avant l'expiration de ce délai, de la même manière qu'elles ont été prises.

Mais cette règle n'a pas lieu relativement aux hypothèques auxquelles sont assujettis les maris pour la dot** et autres répétitions de leurs femmes, et les tuteurs et curateurs envers les mineurs, les interdits et les absents dont ils administrent les biens.

CC 1808. No corresponding article.

CN 1804, Art. 2154.

The registry preserves the mortgages and privileges during ten years, reckoning from the day of their date; their effect ceases, if the inscriptions have not been renewed before the expiration of this time.

Les inscriptions conservent l'hypothèque et le privilège pendant dix années, à compter du jour de leur date; leur effet cesse, si ces inscriptions n'ont été renouvelées avant l'expiration de ce délai.

*"The evidence of" has no counterpart in French text.

**Note error in English translation of French text; "dower" should be "dowry."

ART. 3370. It shall be the duty of notaries, and other public officers acting as such, to cause to be recorded without delay all acts creating mortgages, which shall be executed by them, whether such mortgages be conventional or legal.

It shall also be the duty of judges to cause to be recorded all legal mortgages resulting from appointments made by them of tutors of minors or of curators of interdicted persons or absentees; and in default thereof such notaries or judges shall be liable to an action in damages, and even to be removed from office, as the case may be.

RCC—2251, 2255, 3329 *et seq.*, 3337, 3339, 3341, 3348 *et seq.*, 3366 *et seq.*, 3388. Acts 1916, No. 256; 1928, No. 48, §1. RS—2512, 2513.

RCC 1870, Art. 3370.

(Same as Art. 3370 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3334.

(No reference in Projet)

Par. 1 same as par. 1, above.

It shall also be the duty of judges to cause to be recorded all legal mortgages resulting from appointments made by them of tutors or curators of minors, of interdicted persons or absentees; and in the fault [default] thereof such notaries or judges shall be liable to an action in damages, and even to be removed from office, as the case may be. (In conformity with Acts 1824, p. 164, §4)

Il sera du devoir des notaires, et autres officiers en faisant les fonctions, de faire enregistrer sans délai les actes portant hypothèque, qui auront été passés par devant eux, soit que cette hypothèque soit conventionnelle ou légale.

Il sera également du devoir des juges de faire enregistrer les hypothèques légales qui résulteront des nominations par eux faites de tuteurs ou curateurs de mineurs, d'interdits ou d'absents, à peine envers ces notaires ou juges de tous dommages-intérêts, et même de destitution, suivant le cas. (In conformity with Acts 1824, p. 165, §4)

CC 1808. No corresponding article.**CN 1804.** No corresponding article.

Section 2—OF THE ERASURE OF MORTGAGES

ART. 3371. Inscriptions of mortgages and privileges are erased by the consent of the parties interested and having capacity for that purpose; this consent to be evidenced by a release, or by a receipt given on the records of the court rendering the judgment on which the mortgage is founded.

RCC—1766, 1782 *et seq.*, 1819, 3324, 3341, 3372 *et seq.*, 3386 *et seq.*, 3411. CP—708. Acts 1855, No. 253; 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1932, No. 140, §52; 1934, No. 41. RS—359 (as am. by 1873, No. 68; 1877, No. 15; 1888, No. 75).

RCC 1870, Art. 3371.

Same as above.

CC 1825, Art. 3335.

(Projet, p. 392. Amendment adopted; no comment)

Same as above.

Les inscriptions des hypothèques et des privilèges sont rayées du consentement des parties intéressées et ayant capacité à cet effet, manifesté par un acte de mainlevée ou par une quittance donnée sur les registres de la cour qui a rendu le jugement d'où dérive l'hypothèque.

CC 1808, p. 466, Art. 64.

The acts recorded may be erased either by and with the consent of the parties concerned and having the necessary capacity for that purpose, or by virtue of a judgment either final or having acquired the force of a matter finally adjusted.*

-p. 467, Art. 64.

Les inscriptions sont rayées, du consentement des parties intéressées et ayant capacité à cet effet, ou en vertu d'un jugement en dernier ressort, ou passé en force de chose jugée.*

CN 1804, Art. 2157.

The acts recorded may be erased either by and with the consent of the parties concerned and having the nec-

Same as above; but no punctuation after "rayées", or after "ressort."

essary capacity for that purpose, or by virtue of a judgment either final or having acquired the force of a thing adjudged.

*Note error in English translation of French text; "matter finally adjusted" should be "thing adjudged."

ART. 3372. Inscriptions of mortgages and privileges may be also erased by virtue of a judgment ordering such erasure, in one of the cases hereafter enumerated.

RCC—3324, 3341, 3371, 3373, 3376, 3379 *et seq.*, 3411. CP—708. Acts 1855, No. 253; 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1920, No. 223, §5; 1922, No. 31, §§3, 5; 1924, No. 106, §5; 1932, No. 140, §52. RS—359 (as am. by Acts 1873, No. 68; 1877, No. 15; 1888, No. 75).

RCC 1870, Art. 3372.

Same as above.

CC 1825, Art. 3336.

(Projet, p. 392. Amendment amended in English text and adopted; no comment)

Same as above.

Les inscriptions des hypothèques et privilèges peuvent être également rayées, en vertu d'un jugement qui ordonne cette radiation, dans l'un des cas ci-après prescrits.

CC 1808, pp. 466, 467, Art. 64.

Quoted under RCC 1870, Art. 3371, above.

CN 1804, Art. 2157.

Quoted under RCC 1870, Art. 3371, above.

ART. 3373. This erasure shall be made on a presentation of the acts, receipts and judgments which operate a release of the mortgages and privileges to be erased, in the same manner as directed for their inscription.

RCC—2251 *et seq.*, 2255 *et seq.*, 2264 *et seq.*, 3329, 3342, 3348 *et seq.*, 3366 *et seq.*, 3370, 3371, 3372, 3374 *et seq.*, 3381, 3386 *et seq.* CP—708. Acts 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1920, No. 223, §5; 1922, No. 31, §§3, 5; 1924, No. 106, §5; 1932, No. 140, §53. RS—359 (as am. by Acts 1873, No. 68; 1877, No. 15; 1888, No. 75).

RCC 1870, Art. 3373.

Same as above.

CC 1825, Art. 3337.

(Projet, p. 392. Addition adopted; no comment)

Same as above.

Cette radiation aura lieu sur la représentation de copies authentiques des actes, quittances et jugemens qui opèrent la main-levée des hypothèques et privilèges qu'il s'agit de rayer, de la même manière qu'il est requis pour leur inscription.

CC 1808. No corresponding article.

CN 1804, Art. 2158.

In both cases, those who require the erasure, shall deposit in the office of the recorder an executory copy of the authentic act showing consent, or of the judgment of court.

Dans l'un et l'autre cas, ceux qui requièrent la radiation déposent au bureau du conservateur l'expédition de l'acte authentique portant consentement, ou celle du jugement.

ART. 3374. The recorder of mortgages for the parish of Orleans, and the parish recorders of the several parishes of the State, are authorized and required to cancel from their records any mortgage for which a release may have been granted by an authentic act, upon the mere presentation of the certificate of the notary public before whom such act was executed, or of his successor in office, stating by said act a release was granted and the erasure allowed; this certificate shall be filed in the office of the recorder of mortgages where such cancelling is asked for.

RCC—2234 *et seq.*, 2242, 2264, 3371, 3383, 3386 *et seq.*, 3556 (28). Acts 1846, No. 164; 1866, No. 108. RS—1813, 2522, 3173.

RCC 1870, Art. 3374. (Same as Art. 3374 of Proposed Revision of 1869; Same as above. similar to Acts 1843, No. 164; same as Acts 1855, No. 253, §2 [RS §§2401, 3145])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3375. If the release has been given by an act under private signature, the erasure shall only take place when it has been acknowledged by the mortgagor, or proved by the oath of one of the subscribing witnesses, unless the register be acquainted with the signature of the party who has subscribed the act, and shall agree, on his own responsibility, to make the erasure on the presentation of the original.

RCC—2242, 3305, 3367, 3371, 3395. Acts 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232). RS—1813.

RCC 1870, Art. 3375. (Same as Art. 3375 of Proposed Revision of 1869) Same as above.

CC 1825, Art. 3338. (Projet, p. 392. Addition † adopted; no comment)

If the release has been given by an act under private signature, the erasure shall only take place on the presentation of an authentic copy of the registry of it, made in the office of a notary public, unless the register be acquainted with the signature of the party who has subscribed the act, and shall agree, on his own responsibility, to make the erasure on the presentation of the original.

Si la main-levée a été donnée par un acte sous signature privée, la radiation ne se fera que sur la représentation d'une copie authentique de l'enregistrement qui en aura été fait en l'étude d'un notaire public, à moins que le conservateur ne connaisse la signature de la partie qui a souscrit l'acte, et ne consente, sous sa responsabilité, à faire cette radiation, sur la représentation de l'original de cet acte.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3376. He who shall have subscribed in favor of another, an act bearing a mortgage or privilege, to secure the payment of a debt or the execution of an obligation, may, on the payment of the debt or performance of the obligation, require of the creditor a release of the mortgage or privilege, provided he will defray the expense of the act which it may be necessary to prepare for this purpose; and if the

creditor refuse to grant this release, the other party shall have an action to compel him to grant it, and he shall be condemned to pay the costs.

RCC—3291, 3369, 3372, 3377 *et seq.*, 3396, 3411(4). CP—72, 74, 549, 551. Acts 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1932, No. 140, §53.

RCC 1870, Art. 3376.

Same as above.

CC 1825, Art. 3339.

(Projet, p. 393. Addition † adopted; no comment)

He who shall have subscribed in favour of another, an act bearing a mortgage or privilege, to secure the payment of a debt or the execution of an obligation, may, on payment of the debt, or performance of the obligation, require of the creditor a release of the mortgage or privilege, provided he will defray the expense of the act which it may be necessary to prepare for this purpose; and if the creditor refuse to grant this release, the other party shall have an action to compel him to grant it, and he shall be condemned to pay the costs.

Celui qui aura souscrit en faveur d'un autre, un acte portant hypothèque ou privilège, pour sûreté du paiement d'une dette ou de l'exécution d'une obligation, pourra, lors du paiement de cette dette ou lors de l'exécution de l'obligation, exiger du créancier qu'il lui donne main-levée de cette hypothèque ou de ce privilège, pourvu qu'il paye les frais de l'acte qu'il sera nécessaire de dresser à cet effet; et si le créancier se refuse à cette main-levée, il aura action pour l'y contraindre en justice, et alors le créancier sera condamné aux dépens.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3377. If the debt for which a mortgage has been granted, or for which there exists a privilege, is payable at several terms, the debtor may, on the payment of each installment, require a release from the creditor of the mortgage or privilege, in relation to the installments thus paid, on the terms prescribed in the foregoing article.

RCC—1996, 2048, 2065, 2108 *et seq.*, 3291, 3376, 3378, 3382, 3383, 3385. Acts 1914, No. 176, §18.

RCC 1870, Art. 3377.

Same as above.

CC 1825, Art. 3340.

(Projet, p. 393. Addition adopted; no comment)

Same as above; but comma (,) after "debt."

Si la dette, pour laquelle l'hypothèque a été donnée, ou pour laquelle il existe un privilège, est payable à divers termes, le débiteur pourra, lors du paiement de chacun de ces termes, exiger du créancier qu'il lui donne main-levée de l'hypothèque ou du privilège relativement au terme ou aux termes qui ont été ainsi payés, de la même manière qu'il est dit dans l'article précédent.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3378. But in the case supposed in the preceding article, and in all others where partial releases are given, the mortgage or privilege shall only be finally erased on payment of the last install-

ment of the debt, to insure which payment the whole property burdened shall always remain bound, until the complete discharge of the debt together with the interest and costs that may have accrued.

RCC—2065, 3282, 3291, 3377, 3382, 3383, 3385, 3411. Acts 1914, No. 72 (as am. by 1940, No. 291); 1914, No. 176, §§4, 14, 18.

RCC 1870, Art. 3378.

Same as above.

CC 1825, Art. 3341.

(Projet, p. 393. Addition adopted; no comment)

Same as above; but comma (,) after "discharge of the debt."

Mais dans le cas de l'article ci-dessus, et dans tous les autres où des mains-levées partielles sont données, l'hypothèque ou le privilège ne sera définitivement rayé que lors du paiement du dernier terme de la dette, pour sûreté duquel paiement le bien grevé restera toujours affecté en totalité, jusqu'à l'entier acquittement de la dette et des intérêts et frais qui ont pu l'accroître.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3379. If a debtor who had given a mortgage to his creditor on a certain portion of his property, or who had subscribed in his favor an act importing a privilege, has neglected, on paying the debt, which gave rise to the privilege or mortgage, to obtain the release of it, and if the creditor should afterwards absent himself from the State, leaving behind no representative or attorney, he may obtain a decree for his release from any competent judge of the creditor's last place of residence, by proving to the judge, either by testimony in writing or by sufficient oral testimony, according to the nature and amount of the debt, that it has been fully discharged.

RCC—38, 47 *et seq.*, 56, 57 *et seq.*, 2277, 2985, 2999, 3372, 3376 *et seq.*, 3380, 3411 (4), 3556 (3, 20). CP—116, 194, 195, 964. Acts 1918, No. 179.

RCC 1870, Art. 3379.

(Same as Art. 3379 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3342.

(Projet, p. 393. Addition † adopted; comment by redactors)

If a debtor, who had given a mortgage to his creditor on a certain portion of his property, or who had subscribed in his favour an act importing a privilege, has neglected, on paying the debt, which gave rise to the privilege or mortgage, to obtain the release of it, and if the creditor should afterwards absent himself from the State, leaving behind no representative or attorney, he may obtain a decree for this release from any competent judge of the creditor's last place of residence, by proving to the judge, either by testimony in writing, or by sufficient oral testimony, according to the nature and amount

Si un débiteur, qui avait donné à son créancier une hypothèque sur quelques uns de ses biens, ou qui avait souscrit en sa faveur un acte portant privilège, a négligé, en payant la dette qui donne lieu à ce privilège ou à cette hypothèque, d'en obtenir la main-levée, et que le créancier vienne ensuite à s'absenter de l'Etat sans y laisser aucun représentant ou fondé de pouvoir, il pourra faire ordonner cette main-levée par tout juge compétent du dernier domicile de son créancier, en prouvant à ce juge, soit par une preuve littérale, soit par une preuve testimoniale suffisante, suivant la nature de l'obligation ou son

of the debt, that it has been fully discharged. (Similar to Acts 1817, p. 60, §1)

montant, que cette dette a été par lui entièrement acquittée. (Similar to Acts 1817, p. 61, §1)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3380. When such a demand shall be made before a judge of the last place of residence of the absent creditor, he shall direct that such creditor be cited by notices posted up at the usual places, and shall appoint a person to represent the absent creditor in the case.

RCC—38, 47 *et seq.*, 56, 3379, 3556(20). CP—116, 194, 195, 965.

RCC 1870, Art. 3380.

(Same as Art. 3380 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3343.

(Projet, p. 393. Addition † adopted; comment by redactors)

When such a demand shall be made before a judge of the last place of residence of the absent creditor, he shall direct that such creditor be cited by notices in French and English, posted up at the usual places, and shall appoint a person to represent the absent creditor in the case. (Similar to Acts 1817, p. 60, §2)

Lorsqu'une semblable demande sera portée devant le juge du dernier domicile du créancier absent, en faveur duquel le privilège ou l'hypothèque avait été consenti, il ordonnera de faire citer ce créancier par des affiches en Anglais et en Français placardées aux lieux accoutumés, et il nommera un défenseur pour représenter cet absent dans la cause. (Similar to Acts 1817, p. 61, §2)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3381. When a person, who has obtained a judgment on which an appeal lies, has had it recorded, if this judgment is afterwards reversed or confirmed in part only, the party against whom the inscription had been made, may, on motion before the judge who rendered the judgment, after due notice to the other party, obtain an order for the erasure or reduction of the inscription, as the case may require; and if it be a case for erasure, it shall be made at the expense of the party making the inscription.

RCC—3321 *et seq.*, 3372, 3373. CP—564 *et seq.*

RCC 1870, Art. 3381.

Same as above.

CC 1825, Art. 3344.

(Projet, p. 394. Addition adopted; no comment)

Same as above; but comma (,) after "the party."

Lorsque quelqu'un, qui a obtenu un jugement sujet à appel, l'a fait enregistrer, si ce jugement vient ensuite à être infirmé ou à n'être confirmé qu'en partie, la partie contre laquelle l'inscription avait été prise, pourra, sur simple motion faite par devant le juge qui a rendu le jugement, et dûment notifiée à la partie adverse, faire ordonner que cette inscription sera rayée ou réduite suivant le cas; et s'il y a lieu de rayer l'inscription, la partie, qui l'aura prise, sera condamnée à faire cette radiation à ses dépens.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3382. If a debtor, who has granted a mortgage, or signed an act from which there results a privilege, has given notes payable to order and duly paraphed as hereafter directed, each holder of such notes may, on their being paid, raise the mortgage or release the privilege, to the amount of the note or notes thus paid, of which he was the bearer.

RCC—3377, 3378, 3383 *et seq.* Acts 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232). RS—1813.

RCC 1870, Art. 3382.

(Same as Art. 3382 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3345.

(Projet, p. 394. Addition adopted; no comment)

If a debtor, who has granted a mortgage, or signed an act from which there results a privilege, has given notes payable to order and duly marked, as hereafter directed, each holder of such notes may, on their being paid, raise the mortgage, or release the privilege, to the amount of the note or notes thus paid, of which he was the bearer. (Similar to Acts 1817, p. 60, §3)

Si le débiteur, qui a consenti l'hypothèque ou souscrit l'acte d'où résulte un privilège, a fourni ses billets à ordre dûment paraphés, ainsi qu'il est dit ci-après, chacun des porteurs de ces billets aura droit, lors du paiement, de lever l'hypothèque, ou donner décharge du privilège, jusqu'à concurrence du montant du billet ou des billets dont il est porteur et qui lui sont ainsi payés. (Similar to Acts 1817, p. 61, §3)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3383. Even the drawer of these notes may, if he has paid any of them in bank or in the holder's hands, obtain from the notary who paraphed them as hereafter directed, a certificate by which the said notary shall declare that the note or notes were secured by an act importing a mortgage or privilege, which was passed before him, mentioning the date of the act, the name of the contracting parties, and the objects which were subjected to the mortgage or privilege; and the register of mortgages shall, on the presentation of this certificate, raise the mortgages, according to the amount of the notes mentioned in the certificate, either partially, or entirely, as hereafter directed.

RCC—2251 *et seq.*, 2255 *et seq.*, 3306, 3374, 3377 *et seq.*, 3382, 3384, 3385, 3386 *et seq.* Acts 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232).

RCC 1870, Art. 3383.

(Same as Art. 3383 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3346.

(Projet, p. 394. Addition † adopted; no comment)

Even the drawer of these notes may, if he has paid any of them in bank, or in the holder's hands, obtain from the notary who affixed his mark to them, as hereafter directed, a certificate by which the said notary shall declare that the note or notes were secured by an act importing a mortgage or privilege, which was passed before him, mentioning the date of the act, the name of the contracting parties, and the objects which were subjected to the mortgage or privilege; and the register of mortgages shall, on the presen-

Le débiteur de ces billets pourra même, s'il a payé aucun de ces billets en banque ou entre les mains du porteur, obtenir du notaire qui a paraphé ces billets, ainsi qu'il est dit ci-après, un certificat par lequel ce notaire reconnaîtra que ce billet ou ces billets ont été consentis par un acte portant hypothèque ou privilège, qui a été passé par devant lui, en y faisant mention de la date de cet acte, du nom des parties contractantes, et de la nature de l'objet ou des objets affectés à l'hypothèque ou au privilège; et le conservateur des

tation of this certificate, raise the mortgages, according to the amount of the notes mentioned in the certificate, either partially, or entirely, as hereafter directed.

hypothèques devra, sur la représentation de ce certificat, lever l'hypothèque, suivant le montant des billets mentionnés dans le certificat, soit partiellement, soit définitivement, ainsi qu'il est dit ci-après.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3384. Every notary before whom an act shall have been passed, by which notes to order have been given for the payment of a debt bearing a privilege or mortgage, shall attest each of the notes by putting his name on them, mentioning the date of the act from which the privilege or mortgage is derived, under the penalty of damages.

RCC—3364, 3382, 3383. Acts 1886, No. 40; 1914, No. 72 (as am. by 1940, No. 291); 1934, No. 118. RS—2503.

RCC 1870, Art. 3384. (Same as Art. 3384 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3347. (Projet, p. 394. Addition adopted; no comment)
Every notary, before whom an act shall have been made, by which notes to order have been given for the payment of a debt bearing a privilege or mortgage, shall attest each of the notes by putting his name on them, mentioning the date of the act from which the privilege or mortgage is derived, under the penalty of damages. (In conformity with Acts 1817, p. 60, §4)
Tout notaire qui recevra un acte, par lequel des billets à ordre ont été donnés en payement d'une dette portant privilège ou hypothèque, devra parapher sous sa signature chacun de ces billets, en faisant mention de la date de l'acte d'où dérive ce privilège ou cette hypothèque, à peine de tous dommages-intérêts. (In conformity with Acts 1817, p. 61, §4)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3385. The recorder, to whom partial releases shall be presented resulting from payments made on a debt bearing a privilege or mortgage, shall make mention of these partial releases on the margin of the record of the act by which the privilege or mortgage is secured, but he shall not erase it entirely, until the whole debt, for which it was given, shall have been discharged.

RCC—3282, 3377, 3378, 3382, 3383, 3388 *et seq.*, 3411.

RCC 1870, Art. 3385.

Same as above.

CC 1825, Art. 3348. (Projet, p. 394. Addition adopted; no comment)
Same as above; but comma (,) after "presented."
Le conservateur, auquel il sera présenté des mains-levées partielles, résultant de payemens faits sur une dette portant privilège ou hypothèque, devra faire mention de ces mains-levées partielles en marge de l'inscription de l'acte d'où dérive ce privilège ou cette hypothèque; mais il ne devra rayer définitivement ce privilège ou cette hypothèque, qu'autant que la dette entière, pour laquelle cet acte a été souscrit, aura été acquittée.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Section 3—OF THE OFFICE OF MORTGAGES AND OF THE
DUTIES OF RECORDERS

ART. 3386. There is established in each parish an office for the recording of mortgages, privileges and donations.

RCC—1554, 2251 *et seq.*, 3271 *et seq.*, 3329, 3342 *et seq.*, 3348, 3387 *et seq.*

RCC 1870, Art. 3386.

Same as above.

CC 1825, Art. 3349.

(Projet, p. 395. Amendment adopted; no comment)

Same as above.

Il est établi dans chaque paroisse un bureau pour l'inscription des hypothèques, privilèges et donations.

CN 1808, p. 464, Art. 55.

The recording of the mortgages which are by law subject to that formality, shall be made in an office kept for that purpose in the city of New-Orleans for the whole territory, by a public officer whose title shall be *the register of mortgages of the Territory of Orleans*.

-p. 465, Art. 55.

L'inscription des hypothèques, qui y sont assujetties par la loi, doit être faite à un bureau, tenu à cet effet dans la ville de la Nouvelle-Orléans, pour tout le territoire, par un officier appelé le conservateur des hypothèques du territoire d'Orléans.

CN 1804. No corresponding article.

ART. 3387.* This office is kept in the parish of Orleans by a particular officer, called the recorder of mortgages.

Out of the parish of Orleans, the duties of this recorder are performed by the different parish recorders, within the limits of their respective parishes.

RCC—3386, 3390. Acts 1855, No. 260. RS—3066, 3161. Const. 1898, Arts. 122, 149; 1921, VII, 66, 89.

RCC 1870, Art. 3387.

(Same as Art. 3387 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3350.

(Projet, p. 395. Amendment adopted; no comment)

Par. 1 same as par. 1, above.

Ce bureau est tenu pour la paroisse d'Orléans par un officier particulier, connu sous le nom de Conservateur des Hypothèques.

Out of the parish of Orleans, the duties of this recorder are performed by the different parish judges, within the limits of their respective jurisdictions.

Les fonctions de ce conservateur sont remplies, hors de la paroisse d'Orléans, par les juges des différentes paroisses, dans les limites de leurs juridictions [juridictions] respectives.

CC 1808, pp. 464, 465, Art. 55.

Quoted under RCC 1870, Art. 3386, above.

CN 1804. No corresponding article.

*In connection with this article see Const. 1921, VII, 66.

ART. 3388. The recorder of mortgages for the parish of Orleans has his office in the city of New Orleans, and must keep two registers:

The first, to record all acts from which there results a conventional, judicial or legal mortgage, or privilege;

And the second, to record all donations which have to undergo that formality.

RCC—1554, 2251 *et seq.*, 2848, 3329, 3342, 3345, 3348, 3370, 3385, 3389 *et seq.* Acts 1855, p. 406; 1886, No. 57, §3 (as am. by 1900, No. 30); 1890, No. 51; 1908, No. 76; 1910, No. 215; 1910, No. 233, §1; 1914, No. 176, §11; 1917, E.S., No. 23, §2; 1918, No. 198, §6; 1920, No. 100; 1938, No. 119. RS—451, 2389, 3080, 3082, 3083, 3161, 3164, 3175, 3176, 3177.

RCC 1870, Art. 3388. (Same as Art. 3388 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3351. (Projet, p. 395. Amendment adopted; comment by redactors)

The recorder of mortgages for the parish of Orleans has his office in the city of New Orleans, and must keep three registers*:

The first, to record all acts from which there results a conventional or legal mortgage, or privilege;

The second, to record all judicial mortgages;

And the third, to record all donations which have to undergo that formality.

Le conservateur des hypothèques de la paroisse d'Orléans a son bureau dans la ville de la Nouvelle-Orléans, et il doit tenir trois registres distincts pour y porter les inscriptions qu'il est chargé de faire d'après la loi, savoir*:

Le premier, pour y inscrire tous les actes d'où dérive une hypothèque conventionnelle ou légale, ou un privilège;

Le second, pour y inscrire toutes les hypothèques judiciaires;

Le troisième, pour y inscrire toutes les donations qui sont sujettes à cette formalité.

CC 1808, p. 464, Art. 56.

The register of the mortgages of the Territory of Orleans shall keep, for the purpose of entering the several acts which it is his duty to record, agreeably to law, three distinct *folio* books, in the first of which he shall record all the conventional mortgages;

In the second he shall record all the judicial mortgages; and in the third he shall record all the donations which shall be presented to him for that purpose.

-p. 465, Art. 56.

Le conservateur des hypothèques du territoire d'Orléans tiendra, à l'effet des inscriptions dont il est chargé par la loi, trois registres distincts:

Le premier, sur lequel il inscrira toutes les hypothèques conventionnelles;

Le second, sur lequel il inscrira toutes les hypothèques judiciaires;

Et le troisième, sur lequel il inscrira toutes les donations qui lui seront présentées à cet effet.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "to enter therein the recordations which he is bound by law to make, namely:"

ART. 3389. These registers shall be numbered at each page and signed *ne varietur* on the first and last page, by one of the judges or a justice of the peace for the parish of Orleans.

RCC—2258, 3388, 3390. Acts 1886, No. 57, §3 (as am. by 1900, No. 30); 1890, No. 51; 1908, No. 76; 1910, No. 233; 1914, No. 176, §11; 1917, E.S., No. 23, §2; 1918, No. 198, §6; 1920, No. 100. RS—2389, 3080, 3082, 3083, 3175, 3176, 3177.

RCC 1870, Art. 3389. (Same as Art. 3389 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3352. (Projet, p. 395. Amendment adopted; comment by redactors)

These registers shall be numbered at each page, and signed *ne varietur*, on the first and last page, by the judge of the parish of Orleans.

Ces registres devront être numérotés à chaque page, et être paraphés *ne varietur*, à la première et dernière page, par le juge de la paroisse d'Orléans.

CC 1808, p. 464, Art. 57.

These *folio* books shall be numbered at each page and signed *ne varietur* to prevent alteration* at their first and last page, either by one of the judges of the superior court of the territory of Orleans, or by the parish judge of New-Orleans, and the acts shall be written therein successively and without any blank or interlineation.

-p. 465, Art. 57.

Ces registres devront être numérotés à chaque page, et être signés *ne varietur** à la première et dernière page, par l'un des juges de la cour supérieure du territoire d'Orléans, ou par le juge de la paroisse d'Orléans, et les inscriptions devront se faire de suite, sans aucun blanc ni interligne.

CN 1804, Art. 2201.

All the registers of recorders are kept on stamped paper, numbered and paraphed on each page from first to last by one of the judges of the court in whose district the office is located. These registers shall be closed each day like those for the registration of acts.

Tous les registres des conservateurs sont en papier timbré, cotés et paraphés à chaque page par première et dernière, par l'un des juges du tribunal dans le ressort duquel le bureau est établi. Les registres seront arrêtés chaque jour comme ceux d'enregistrement des actes.

*"To prevent alteration" has no counterpart in French text.

ART. 3390. The parish recorders must keep the same number of registers as the recorder of mortgages for the parish of Orleans, and shall number their pages, and have them signed *ne varietur* on the first and last page by the parish judge of their parish or two justices of the peace for their parish.

RCC—2258, 3387 *et seq.*, 3391 *et seq.* Acts 1886, No. 57, §3 (as am. by 1900, No. 30); 1890, No. 51; 1908, No. 76; 1910, No. 233; 1914, No. 176, §11; 1917, E.S., No. 23, §2; 1918, No. 198, §6; 1920, No. 100. RS—2389, 3082, 3083, 3175, 3176, 3177.

RCC 1870, Art. 3390.

(Same as Art. 3390 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3353.

(Projet, p. 395. Addition ‡ adopted; no comment)

The parish judges must keep the same number of registers as the recorder of mortgages for the parish of Orleans, and shall number their pages, and have them signed *ne varietur** by the judge of their district, or two justices of the peace for their parish. (In conformity with Acts 1810, Chap. XXV, §2)

Les juges de paroisse devront tenir le même nombre de registres que le conservateur des hypothèques de la paroisse d'Orléans, et ils devront en faire numéroté les pages, et les faire parapher *ne varietur*, à la première et dernière page,* par le juge de leur district ou par deux juges de paix de leur paroisse. (In conformity with Acts 1810, Chap. XXV, §2)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "on the first and last page."

ART. 3391.* Besides the registers above mentioned, the recorder of mortgages, and the parish recorders performing the same duties in the different parishes, shall keep a separate register, in which they shall set down from day to day, and according to their date, the title of the different acts transmitted to them to be recorded, for the purpose of establishing with exactness the time of such transmission.

This register shall be open to the inspection of all persons who may wish to examine it, during the hours at which the office is kept open, but it can not be removed.

RCC—2254, 2256 *et seq.*, 2262, 2264, 2266, 3273, 3358, 3388 *et seq.*, 3390, 3392 *et seq.* Acts 1826, p. 162; 1855, p. 406; 1886, No. 57, §3 (as am. by 1900, No. 30); 1908, No. 76; 1910, No. 215; 1910, No. 233; 1920, No. 100; 1921, E.S., No. 56, §1; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285). RS—451, 3080 *et seq.*, 3175, 3176, 3177.

RCC 1870, Art. 3391.

Same as above.

(Same as Art. 3391 of Proposed Revision of 1869; same as CC 1825, Art. 3354, as amended by Acts 1826, p. 162, §1 [RS §451])

CC 1825, Art. 3354.

(Projet, p. 395. Amendment ‡ adopted; comment by redactors)

Besides the registers above mentioned, the recorder of mortgages, and the judges performing the same duties in the different parishes, shall keep:

1. A separate register, in which they shall set down from day to day, and according to their date, the title of the different acts transmitted to them to be recorded, for the purpose of establishing with exactness the time of such transmission;

2. A book numbered and signed in the same manner as their registers, in which they shall insert, in regular order, a summary of all the acts which they have recorded.

This book shall be open to the inspection of all persons who may wish to examine it, during the hours at which the office is kept open, but it cannot be removed.

En outre des registres d'inscriptions ci-dessus mentionnés, le conservateur des hypothèques, et les juges qui en remplissent les fonctions dans les diverses paroisses, devront tenir:

1. Un registre particulier où ils porteront en note, jour par jour et par ordre de date, les titres des divers actes qui leur sont remis pour être inscrits, à l'effet de constater l'époque de cette remise;

2. Un répertoire numéroté et paraphé de la même manière que leurs registres d'inscription, dans lequel ils inséreront par ordre un extrait de tous les actes qu'ils auront inscrits.

Ce répertoire sera soumis à l'inspection de tous ceux qui voudront l'examiner, aux heures où le bureau des hypothèques sera ouvert, mais ne pourra être déplacé.

CC 1808, p. 466, Art. 62.

The register shall have a docket on which he shall enter day by day successively and in a numerical order, the delivery made to him of any acts of sale, donations, judgments, or other titles of mortgages, in order to be recorded, and he shall give to each party, if required, a receipt mentioning the number of the docket on which said delivery had been entered, and it shall not be lawful for him, to record any of the said acts or judgments in the books kept for that purpose, out of the date and order of their being delivered to him.

-p. 467, Art. 62.

Le conservateur sera tenu d'avoir un registre sur lequel il inscrira, jour par jour, et par ordre numérique, les remises qui lui seront faites, d'actes de ventes ou de donations, jugemens ou autres titres hypothécaires, pour être inscrits; il donnera au requérant, s'il l'exige, une reconnaissance qui rappellera [rappellera] le numéro du registre sur lequel la remise aura été inscrite, et il ne pourra inscrire aucuns des susdits actes ou jugemens, sur les registres à ce destinés, qu'à la date et dans l'ordre des remises qui lui auront été faites.

CN 1804, Art. 2200.

Nevertheless recorders are bound to keep a register on which they shall enter, day by day and in numerical order, the delivery made to them of any acts of transfer to be transcribed, or of abstracts to be recorded; they shall give to the applicant a receipt on stamped paper, bearing the number of the register on which the delivery had been

Néanmoins les conservateurs seront tenus d'avoir un registre sur lequel ils inscriront, jour par jour et par ordre numérique, les remises qui leur seront faites d'actes de mutation pour être transcrits, ou de bordereaux pour être inscrits; ils donneront au requérant une reconnaissance sur papier timbré, qui rappellera le numéro du registre sur

entered, and they shall not transcribe acts of transfer or record abstracts in the books kept for this purpose, out of the date and order they have been delivered to them.

lequel la remise aura été inscrite, et ils ne pourront transcrire les actes de mutation ni inscrire les bordereaux sur les registres à ce destinés, qu'à la date et dans l'ordre des remises qui leur en auront été faites.

*In connection with this article see Acts 1908, No. 76.

ART. 3392. In no case can the recorder of mortgages and the parish recorders fulfilling the same duties, refuse or delay the recording of the acts which are presented to them for that purpose, or the delivery of the certificates which are required of them, as hereafter stated.

RCC—2254, 2256 *et seq.*, 2262 *et seq.*, 3273, 3358, 3388, 3391, 3393 *et seq.* Acts 1908, No. 76; 1910, No. 215; 1916, No. 256; 1921, E.S., No. 56, §1; 1928, No. 157; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285). RS—3080, 3146.

RCC 1870, Art. 3392.

(Same as Art. 3392 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3355.

(Projet, p. 396. Amendment adopted; comment by redactors)

In no case can the recorder of mortgages and the judges fulfilling the same duties, refuse or delay* the recording of the acts which are presented to them for that purpose, or the delivery of the certificates which are required of them, as hereafter stated.

Le conservateur des hypothèques, et les juges en remplissant les fonctions, ne peuvent refuser ni retarder indûment* la transcription des actes qui leur sont présentés à cet effet, ni la délivrance des certificats qui leur sont demandés, ainsi qu'il est dit ci-après.

CC 1808, p. 466, Art. 61.

In no case may the register of mortgages refuse or delay either the recording of the acts which are presented to him for that purpose; or the delivery of the certificates which are required of him, under penalty of damages towards the parties.

-p. 467, Art. 61.

Dans aucun cas, le conservateur des hypothèques ne peut refuser, ni retarder la transcription des actes qui lui sont présentés à cet effet, ni la délivrance des certificats requis, sous peine des dommages et intérêts des parties.

CN 1804, Art. 2199.

In no case may recorders refuse or delay the transcription of acts of transfer, the recording of hypothecary rights, or the delivery of the certificates which are required of them, under penalty of damages towards the parties; to effect such purpose, a procès-verbal of the refusal or delay shall forthwith be drawn up, at the instance of the applicants, either by a justice of the peace, or by a clerk of court or any other deputy, or by a notary assisted by two witnesses.

Dans aucun cas, les conservateurs ne peuvent refuser ni retarder la transcription des actes de mutation, l'inscription des droits hypothécaires, ni la délivrance des certificats requis, sous peine des dommages et intérêts des parties; à l'effet de quoi, procès-verbaux des refus ou retardemens seront, à la diligence des requérans, dressés sur-le-champ, soit par un juge de paix, soit par un huissier audiencier du tribunal, soit par un autre huissier ou un notaire assisté de deux témoins.

*English translation of French text incomplete; should include "unduly."

ART. 3393.* These officers shall record on their register the acts which are presented to them, in the order of their date, and without leaving any intervals or blank space between them; and they are bound also to deliver to all persons who may demand them, a certificate

of the mortgages, privileges or donations, which they may have thus recorded; if there be none, their certificate shall declare that fact.

RCC—1554, 2257, 3273, 3358, 3364, 3388, 3392, 3394. CP—678. Acts 1910, No. 69; 1910, No. 215; 1920, No. 142, §4; 1920, No. 204; 1921, E.S., No. 56, §1; 1928, No. 157; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285); 1938, No. 119, §1. RS—171, 2424, 2514, 2528, 3180, 3395.

RCC 1870, Art. 3393.

Same as above.

CC 1825, Art. 3356.

(Projet, p. 396. Substitution adopted; comment by redactors)

Same as above; but comma (,) after "persons." (In conformity with Acts 1810, Chap. XXV, §2)

Ces officiers devront inscrire sur leurs registres les actes qui leur sont présentés, par ordre de date et sans laisser de blanc ou d'intervalle entr'eux; et ils sont tenus en outre de délivrer à tous ceux qui le requerront, certificat des hypothèques, privilèges ou donations qu'ils auront ainsi inscrits; s'il n'en existe point, leur certificat en contiendra une déclaration. (In conformity with Acts 1810, Chap. XXV, §2)

CC 1808, pp. 464, 465, Art. 57.

Quoted under RCC 1870, Art. 3389, above.

-p. 466, Art. 58.

And it shall be the duty of the register of mortgages, to deliver to any person who shall require it, a certificate of the mortgages and donations recorded in his book, and if no such thing exists, his certificate shall contain a declaration of it.

-p. 467, Art. 58.

Le conservateur des hypothèques sera tenu de délivrer, à tous ceux qui le requerront, certificat des hypothèques, ou donations transcrites sur ses registres, ou s'il n'en existe point, son certificat devra en contenir la déclaration.

CN 1804, Art. 2196.

It is the duty of recorders of mortgages to deliver to any person who requires it a copy of the acts transcribed on their registers and of the existing recordations, or a certificate that none exists.

Les conservateurs des hypothèques sont tenus de délivrer à tous ceux qui le requièrent, copie des actes transcrits sur leurs registres et celle des inscriptions subsistantes, ou certificat qu'il n'en existe aucune.

-Art. 2203.

Entries relating to deposits, recordations and transcriptions shall be made in the registers following each other without blanks or interlineations, under penalty against the recorder, of a fine of from one thousand to two thousand francs, and of damages suffered by the parties, also payable by preference over the fine.

Les mentions de dépôts, les inscriptions et transcriptions, sont faites sur les registres, de suite, sans aucun blanc ni interligne, à peine, contre le conservateur, de mille à deux mille francs d'amende, et des dommages et intérêts des parties, payables aussi par préférence à l'amende.

*In connection with this article see Acts 1910, No. 215; 1928, No. 157.

ART. 3394.* The register of mortgages and the parish recorders performing the same duty, are answerable for injury resulting:

1. From omitting to record such acts as are directed to be recorded in their office.

2. From omitting to mention in their certificates one or several acts existing on their registers, unless in this latter case the error

proceeds from a want of exactness in the description, which can not be imputed to them.

RCC—1554, 2251 *et seq.*, 2255 *et seq.*, 2264 *et seq.*, 3271, 3306, 3330 *et seq.*, 3348, 3364, 3369, 3375, 3388, 3390 *et seq.*, 3395. Acts 1908, No. 76; 1910, No. 215; 1916, No. 256; 1928, No. 157; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285). RS—3146.

RCC 1870, Art. 3394. (Same as Art. 3394 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3357. (Projet, p. 396. Amendment adopted; no comment)

The register of mortgages, and the parish judges performing the same duty, are answerable for injury resulting:

Subds. 1, 2 same as subds. 1, 2, above; but colon (:) after "office."

Le conservateur des hypothèques, et les juges de paroisse en remplissant les fonctions, sont responsables du préjudice résultant:

1. De l'omission sur leurs registres des transcriptions requises en leur bureau;

2. Du défaut de mention dans leurs certificats d'une ou de plusieurs des inscriptions qui existent dans leurs registres, à moins que, dans ce dernier cas, l'erreur ne vint de désignations insuffisantes qui ne pourraient leur être imputées.

CC 1808, p. 466, Art. 59.

He is answerable for the prejudice resulting:—

1st. When the recording of any act has been omitted in his books;

2dly. When he fails to mention in his certificate one or several acts recorded in his office, unless in this case, his error proceeds from some incorrect information which cannot be imputed to him.

-p. 467, Art. 59.

Il est responsable du préjudice résultant:

1. De l'omission, sur ses registres, des transcriptions requises en son bureau;

2. Du défaut de mention, dans ses certificats, d'une ou de plusieurs des inscriptions existantes, à moins, dans le dernier cas, que l'erreur ne provint de désignations insuffisantes, qui ne pourraient lui être imputées.

CN 1804, Art. 2197.

They are answerable for the prejudice resulting,

1. From omitting to record such acts of transfer and of inscription as are directed to be recorded in their offices.

Subd. 2 same as CC 1825, Art. 3357, subd. 2, above.

Ils sont responsables du préjudice résultant,

1. De l'omission sur leurs registres, des transcriptions d'actes de mutation, et des inscriptions requises en leurs bureaux;

2. Du défaut de mention dans leurs certificats, d'une ou de plusieurs des inscriptions existantes, à moins, dans ce dernier cas, que l'erreur ne provint de désignations insuffisantes qui ne pourraient leur être imputées.

*In connection with this article see Acts 1908, No. 76.

ART. 3395. The register of mortgages for the parish of Orleans shall furnish to the Governor of the State one or more sureties to the amount of forty thousand dollars, for the faithful execution of the duties required of him by law, and for the payment of such damages as may be sustained by his failure to discharge such duties.

RCC—3375, 3394. Acts 1880, No. 58; 1914, No. 274, §1. RS—3170. Const. 1898, Art. 149; 1913, Art. 149; 1921, VII, 89.

RCC 1870, Art. 3395.
Same as above.

CC 1825, Art. 3358.

(Projet, p. 396. Amendment adopted; no comment)

Same as above.

Le conservateur des hypothèques de la paroisse d'Orléans doit fournir, entre les mains du gouverneur, une ou plusieurs cautions pour une somme de quarante mille piastres, pour sûreté de l'exécution des obligations qui lui sont imposées par la loi, et du paiement des dommages-intérêts que les parties pourront souffrir de l'inexécution de ces obligations.

CC 1808, p. 466, Art. 66, par. 2.

Therefore the said register shall furnish to the governor of the territory one or several sureties to the amount of forty thousand dollars for the surety of the execution of the obligations which are imposed on him by law, and of the payment of the damages which the party may suffer by his failing to execute them.

-p. 467, Art. 66, par. 2.

En conséquence, ledit conservateur devra fournir, entre les mains du gouverneur, une ou plusieurs cautions de la somme de quarante mille piastres, pour sûreté de l'exécution des obligations qui lui sont imposées par la loi, et des dommages intérêts que les parties pourront souffrir de leur inexécution.

CN 1804. No corresponding article.

*In connection with this article see Const. 1898, Art. 149; Const. 1913, Art. 149; Const. 1921, VII, 89.

ART. 3396. The fees, to which the register of mortgages and the parish recorders performing the same duty are entitled for recording acts delivered to them and giving certificates, are regulated by special laws.

RCC—2848, 3376. Acts 1870, No. 101, §10 (as am. by 1935, 4E.S., No. 22); 1880, No. 136, §§17, 18; 1898, No. 203, §6 (as am. by 1936, No. 334, and 1938, No. 228); 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §§3, 6; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1918, No. 200; 1924, No. 183; 1928, No. 157.

RCC 1870, Art. 3396.

(Same as Art. 3396 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3359.

(Projet, p. 396. Addition adopted; no comment)

The fees, to which the register of mortgages and the parish judges performing the same duty, are entitled, for recording acts delivered to them and giving certificates, are regulated by special laws.

Les droits, qui reviennent au conservateur des hypothèques et aux juges de paroisse qui en remplissent les fonctions, pour l'enregistrement des actes qui leur sont remis et la délivrance des certificats, sont fixés par des lois spéciales.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Chapter 3—OF THE EFFECTS OF MORTGAGES AND PRIVILEGES

Section 1—OF THE EFFECTS OF MORTGAGES AND PRIVILEGES WITH REGARD TO THE DEBTOR

ART. 3397. The mortgage has the following effects:

1. That the debtor can not sell, engage or mortgage the same property to other persons, to the prejudice of the mortgage which is already made to another creditor.

2. That if the mortgaged thing goes out of the debtor's hands, the creditor may follow it in whatever hands it may have passed, in so much that the third possessor of it is obliged, either to pay the debt for which the thing is mortgaged or to relinquish it to be sold, that the creditor may be paid out of the proceeds thereof.

3. That the mortgagee has the benefit of being preferred to the mere chirographic or personal* creditors, and even to the other mortgagees who are posterior to him in the date of the registry of their mortgages.

RCC—1433 *et seq.*, 1997, 2254, 2262, 2266, 2453, 3186, 3251, 3269, 3271, 3273, 3274, 3282, 3296 *et seq.*, 3329, 3342, 3358, 3365, 3399 *et seq.* CP—61 *et seq.*, 732 *et seq.* Acts 1877, No. 38, §5 (as am. by 1916, No. 111, §5); 1900, No. 111, §8; 1914, No. 72 (as am. by 1940, No. 291); 1918, No. 198, §4 (as am. by 1936, No. 178); 1922, No. 52 (as am. by 1928, No. 216); 1928, No. 249, §§7, 10, 11; 1932, No. 140, §§43, 46, 47, 50, 51; 1932, No. 166; 1934, No. 169. RS—1491.

RCC 1870, Art. 3397.

(Same as Art. 3397 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3360.

(No reference in Projet)

The mortgage has the following effects:

Les effets de l'hypothèque sont:

1. That the debtor cannot sell, engage or mortgage the same property to other persons, to the prejudice of the mortgage which is already acquired to another creditor;

1. Que le débiteur ne peut pas vendre, engager, ni hypothéquer les mêmes biens à d'autres personnes, au préjudice de l'hypothèque qui est déjà acquise au premier créancier;

2. That if the mortgaged thing goes out of the debtor's hands, the creditor may claim it in whatever hands it may have passed, in so much that the third possessor of it is obliged, either to pay the debt for which the thing is mortgaged, or to leave it to be sold, that the creditor may be paid out of the proceeds thereof;

2. Que, si le bien hypothéqué sort des mains du débiteur, le créancier peut le suivre en quelques mains qu'il passe, tellement, que le tiers détenteur est obligé, ou de payer la dette pour laquelle l'hypothèque est accordée, ou de laisser le bien hypothéqué, pour être vendu, et le créancier être payé sur le prix d'ice-lui;

3. That the mortgagee has the benefit of being preferred to the mere chirographic or personal* creditors, and even to the other mortgagees who are posterior to him in the date of their mortgage or of its registry.

3. Le créancier hypothécaire a l'avantage d'être préféré aux créanciers chirographaires,* et même aux créanciers hypothécaires qui lui sont postérieurs en date ou en inscription.

CC 1808, p. 460, Art. 39.

Same as above; but colon (:) after "another creditor"; no punctuation after "obliged", or after "creditors"; period (.) after "thereof."

-p. 461, Art. 39.

Same as above; but "si le bien hypothéqué" spelled "si le bien hypotéqué"; comma (,) after "et le créancier", and after "date."

CN 1804. No corresponding article.

*"Or personal" has no counterpart in French text.

ART. 3398. The mode of proceeding when the thing mortgaged is in the debtor's possession, and also when it is in the hands of a third person, is prescribed in the Code of Practice.

RCC—1433 *et seq.*, 2618 *et seq.*, 2622 *et seq.*, 3269, 3278, 3305, 3320, 3328, 3399 *et seq.*, 3543. CP—61 *et seq.*, 732 *et seq.* Acts 1894, No. 15; 1902, No. 25; 1906, No. 113; 1910, No. 69; 1910, No. 148, §1; 1914, No. 72 (as am. by 1940, No. 291); 1914, No. 176; 1918, No. 198, §9; 1920, No. 204; 1926, No. 57; 1932, No. 44, §1 (as am. by 1936, No. 273); 1932, No. 44, §2; 1932, No. 140, §§46, 47; 1934, No. 28; 1938, No. 126. RS—171, 3395.

RCC 1870, Art. 3398.

(Same as Art. 3398 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3361.

(No reference in Projet)

When the things mortgaged are in the debtor's possession, the creditor may, in case of failure of payment, proceed against him in the usual manner, by citing him to obtain judgment against him, if the original title does not amount to confession of judgment, and causing afterwards the thing mortgaged to be seized and sold; and if the title amounts to a confession of judgment, he may, on his oath that the debt is due, obtain from the judge an order for an immediate seizure of the thing; but if the thing mortgaged is out of the debtor's possession, but in the hands of a third possessor, he must then proceed against this third possessor by what is called the action of mortgage, as is directed in the following section.

Lorsque les biens hypothéqués sont entre les mains du débiteur, le créancier peut à défaut de paiement, procéder contre lui par la voie ordinaire, en le faisant citer pour obtenir condamnation contre lui, si le titre original n'emporte pas exécution parée, en faisant ensuite saisir et vendre les biens hypothéqués; et si le titre emporte exécution parée, il peut, sur un simple serment de la dette, obtenir du juge un ordre de saisie immédiate desdits biens. Mais si les biens hypothéqués ne sont plus en la possession du débiteur, mais en celle d'un tiers acquéreur, il faut alors procéder contre ce tiers, par ce qu'on appelle l'action hypothécaire, ainsi qu'il est prescrit en la section suivante.

CC 1808, p. 460, Art. 40.

When the things mortgaged are in the debtor's possession, the creditor may, in case of failure of payment, proceed against him in the usual manner, by citing him to obtain judgment against him, if the original title does not amount to confession of judgment, and causing afterwards the thing mortgaged to be seized and sold, and if the title amounts to a confession of judgment, he may on his oath that the debt is due, obtain from the judge an order for an immediate seizure of said thing; but if the thing mortgaged is out of the debtor's possession, but in the hands of a third possessor, he must then proceed against this third possessor by what is called the action of mortgage as is directed in the following section.

-p. 461, Art. 40.

Lorsque les biens hypothéqués sont entre les mains du débiteur, le créancier peut, à défaut de paiement, procéder contre lui par la voie ordinaire, en le faisant citer pour obtenir condamnation contre lui, si le titre original n'emporte pas exécution parée, et en faisant ensuite saisir et vendre les biens hypothéqués; et, si le titre emporte exécution parée, il peut, sur un simple serment de la dette, obtenir du juge un ordre de saisie immédiate desdits biens.

Mais, si les biens hypothéqués ne sont plus en la possession du débiteur, mais en celle d'un tiers acquéreur, il faut alors procéder contre ce tiers, parce [par cel qu'on appelle l'action hypothécaire, ainsi qu'il est prescrit en la section suivante.

CN 1804. No corresponding article.

Section 2—OF THE EFFECT OF MORTGAGES AGAINST THIRD POSSESSORS, AND OF THE HYPOTHECARY ACTION*

ART. 3399. The creditors who have either a privilege or mortgage on immovables, may pursue their claims on them into whatever hands they may happen to pass, to be paid out of their proceeds according to their rank, provided that their titles have been registered according to law.

RCC—1433 *et seq.*, 1997, 2251 *et seq.*, 2255 *et seq.*, 2264 *et seq.*, 3181, 3271, 3274, 3282, 3329, 3342 *et seq.*, 3348, 3370, 3391, 3397, 3398, 3400 *et seq.* CP—61 *et seq.*, 732 *et seq.*, 744. Acts 1877, No. 38, §5 (as am. by 1916, No. 111, §5); 1900, No. 111, §8; 1902, No. 25; 1928, No. 249, §10; 1932, No. 140, §§43, 46, 47, 50, 51. RS—1491.

RCC 1870, Art. 3399.

(Same as Art. 3399 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3362.

(No reference in Projet)

The creditors who have either a privilege or mortgage on immoveable property or on slaves, may pursue their claim on them in whatever hands they may happen to pass, to be paid out of their proceeds according to their rank, provided that their titles have been registered according to law.

Les créanciers qui ont privilège ou hypothèque sur un immeuble ou sur des esclaves, les suivent en quelques mains qu'ils passent, à l'effet d'être colloqués et payés sur leur prix, suivant l'ordre de leurs privilèges et hypothèques, pourvu que leurs titres aient été inscrits, dans le cas et de la manière prescrits par la loi.

CC 1808, p. 460, Art. 41.

The creditors who have either a privilege or a mortgage on immoveable property or on slaves, may pursue their claim on them in whatever hands they may happen to pass, to be paid out of their proceeds in the order of collocation, agreeably to their privileges or mortgages, *provided* that their titles have been registered in the cases and in the manner directed by law.

-p. 461, Art. 41.

Les créanciers qui ont privilège ou hypothèque sur un immeuble, ou sur des esclaves, les suivent en quelques mains qu'ils passent, à l'effet d'être colloqués et payés sur leur prix, suivant l'ordre de leurs privilèges ou hypothèques, *pourvu* que leurs titres aient été inscrits, dans le cas, et de la manière prescrite par la loi.

CN 1804, Art. 2166.

The creditors having either a privilege or a mortgage recorded against an immovable, may pursue their claim on it in whatever hands it may happen to pass, to be ranked and paid according to the order of their claims or recordings.

Les créanciers ayant privilège ou hypothèque inscrite sur un immeuble, le suivent en quelques mains qu'il passe, pour être colloqués et payés suivant l'ordre de leurs créances ou inscriptions.

*In connection with this section see CP, Arts. 61 *et seq.*, 732 *et seq.*

ART. 3400.* The third possessor of the immovable property mortgaged, is bound either to discharge the principal, together with all interest of the debt for which the property was mortgaged, to whatever sum they may amount, or to relinquish the property without any reservation.

RCC—1438 *et seq.*, 1938, 2321, 3397, 3398, 3399, 3401 *et seq.*, 3405, 3406, 3410, 3426 *et seq.* CP—68 *et seq.*

RCC 1870, Art. 3400.

(Same as Art. 3400 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3363.

(No reference in Projet)

The third possessor of the immoveable property or slaves mortgaged, is bound either to discharge the principal together with all interest of the debt for which the property was mortgaged, to whatever sum they may amount, or to relinquish the property, without any reservation.

Le tiers-détenteur de l'immeuble, ou des esclaves hypothéqués, est tenu, ou de payer tous les intérêts et capitaux exigibles, pour lesquels ces biens ont été hypothéqués, à quelque somme qu'ils puissent s'élever, ou de délaisser ces mêmes biens, sans aucune réserve.

CC 1808, p. 460, Art. 42.

The third possessor of the immoveable property or slaves mortgaged, is bound either to discharge the principal together with all interest of the debt for

-p. 461, Art. 42.

Le tiers détenteur d'immeuble, ou des esclaves hypothéqués, est tenu, ou de payer tous les intérêts et capitaux exigibles, pour lesquels ces biens ont

which the said property was mortgaged, to whatever sum they may amount, or to relinquish the property, without any reservation.

été hypothéqués, à quelque somme qu'ils puissent s'élever, ou de délaisser ces mêmes biens, sans aucune réserve.

CN 1804, Art. 2168.

The third possessor is bound, in the same case, either to discharge the principal together with all interest due, to whatever sum they may amount, or to relinquish the mortgaged immovable, without any reservation.

Le tiers détenteur est tenu, dans le même cas, ou de payer tous les intérêts et capitaux exigibles, à quelque somme qu'ils puissent monter, ou de délaisser l'immeuble hypothéqué, sans aucune réserve.

*In connection with this article see CP, Art. 68.

ART. 3401.* In case the third possessor fails to comply with either of these obligations, every mortgage or privileged creditor is entitled to cause the immovable mortgaged or subject to privilege to be sold, if, thirty days after amicable demand of payment from the debtor, the debt has not been discharged.

RCC—1433, 3397, 3398, 3400, 3402 *et seq.* CP—68 *et seq.*, 744.

RCC 1870, Art. 3401.

(Same as Art. 3401 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3364.

(Projet, p. 397. Amendment ‡ adopted; no comment)

In case the third possessor fail to comply with either of these obligations, every mortgage or privileged creditor is entitled to cause the immoveable mortgaged or subject to privilege to be sold, if thirty days after amicable demand of payment from the debtor, the debt has not been discharged.

Faute par le tiers détenteur de satisfaire pleinement à l'une de ces obligations, chaque créancier hypothécaire ou privilégié a droit de faire vendre sur lui l'immeuble hypothéqué ou sujet au privilège, si trente jours après la demande à l'amiable qui aura été faite au débiteur, du paiement de la dette, cette dette n'a pas été pleinement acquittée.

CC 1808, p. 460, Art. 43, par. 1.

In case the third possessor fails to comply with either of these obligations, every mortgagee creditor is entitled to cause the immoveable or the slaves mortgaged to be sold, after having previously obtained against the principal debtor a judgement for the debt for which the mortgage had been given.

-p. 461, Art. 43, par. 1.

Faute, par le tiers détenteur, de satisfaire pleinement à l'une de ces obligations, chaque créancier hypothécaire a droit de faire vendre, sur lui, l'immeuble ou les esclaves hypothéqués, après avoir préalablement obtenu, contre le débiteur originaire, un jugement de condamnation de la dette pour laquelle l'hypothèque a été accordée.

CN 1804, Art. 2169.

In case the third possessor fails to comply with either of these obligations, every mortgage creditor is entitled to cause the immovable mortgaged to be sold, thirty days after demand has been made on the original debtor, and summons given to the third possessor to pay the debt due or to relinquish the property.

Faute par le tiers détenteur de satisfaire pleinement à l'une de ces obligations, chaque créancier hypothécaire a droit de faire vendre sur lui l'immeuble hypothéqué, trente jours après commandement fait au débiteur originaire, et sommation faite au tiers détenteur de payer la dette exigible ou de délaisser l'héritage.

*In connection with this article see CP, Art. 69.

ART. 3402.* The creditor who shall institute this action against a third possessor, must make oath, at the foot of his petition, that the debt for which he prays the seizure of the thing on which he has a

mortgage or privilege is really due to him, and that he has demanded payment of it without success, thirty days before he presents his petition.

RCC—1433 *et seq.*, 3398, 3401. CP—69, 70.

RCC 1870, Art. 3402.

Same as above.

CC 1825, Art. 3365.

(Projet, p. 397. Substitution ‡ adopted; no comment)

Same as above; but comma (,) after "privilege."

Le créancier, qui intentera cette action contre le tiers-détenteur, devra faire serment, au bas de la pétition qu'il présentera à cet effet, que la somme pour laquelle il demande la saisie de la chose sur laquelle il a une hypothèque ou un privilège, lui est réellement due, et qu'il a vainement réclamé de son débiteur le paiement de cette dette, trente jours avant sa demande.

CC 1808, p. 460, Art. 43, par. 2.

The seizure of the property mortgaged shall be ordered by a judgment, on the producing of a copy in due form of the act of mortgage, as well as of the judgment obtained against the principal debtor, supported by the oath of the mortgagee creditor stating that the amount of said judgment is actually due to him and that the property mortgaged has been sold to a third person named in the petition; but the order of seizure obtained on said petition shall be served on the third possessor ten days before its execution, in order to know whether he will not rather chuse [choose] to discharge the debt, than to let the property mortgaged be seized and sold. (Suppressed on recommendation of redactors; Projet, p. 397)

-p. 461, Art. 43, par. 2.

La saisie des biens hypothéqués sera ordonnée par le juge, sur la représentation d'une copie en bonne forme, de l'acte hypothécaire et du jugement obtenu contre le principal débiteur, appuyé du serment du créancier hypothécaire, constatant que le montant dudit jugement lui est dû, et que les biens hypothéqués, dont il demande la saisie, ont été vendus à un tiers dénommé dans la pétition, mais l'ordre de saisie obtenu sur cette pétition, devra être notifié au tiers détenteur, dix jours avant d'être mis à exécution, afin de s'assurer, s'il ne préfère pas de payer la dette, plutôt que de laisser saisir et vendre les biens hypothéqués. (Suppressed on recommendation of redactors; Projet, p. 397)

CN 1804. No corresponding article.

*In connection with this article see CP, Art. 70.

ART. 3403.* The third possessor who is not personally liable for the debt, may, notwithstanding,** within ten days from his being served with an order of seizure, oppose the sale of the property mortgaged which is in his possession, if he has good cause to show in support of such opposition, as that the mortgage has not been registered, or other plea, or if there is other property mortgaged for the same debt within the possession of the principal debtor or debtors, in which last case the possessor may demand that his property be previously discussed, in the form directed under the title: *Of Suretyship*, and during the discussion the sale of the property mortgaged [mortgaged], and in the possession of the third person,*** shall be suspended.

RCC—1433, 2574, 3045 *et seq.*, 3296, 3329, 3401, 3404 *et seq.* CP—71 *et seq.*, 715.

RCC 1870, Art. 3403.

(Same as Art. 3403 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3366.

(No reference in Projet)

The third possessor, who is not personally liable to the debt, may, notwithstanding,** within ten days from his being served with an order of seizure, oppose the sale of the property mortgaged, which is in his possession, if he has good cause to show in support of such opposition, as that the mortgage has not been registered or other plea, or if there is other property mortgaged for the same debt within the possession of the principal debtor or debtors, in which last case the possessor may demand that his property be previously discussed, in the form directed under the title of *suretyship*, and during the discussion the sale of the property mortgaged and in the possession of the third person,** shall be suspended.

CC 1808, p. 462, Art. 44.

The third possessor who is not personally liable to the debt, may notwithstanding,** within ten days from his being served with an order of seizure, oppose the sale of the property mortgaged which is in his possession, if he has good cause to shew in support of such opposition as that the mortgage has not been registered or other plea, or if there is other property mortgaged for the same debt within the possession of the principal debtor or debtors, in which last case said possessor may demand that his property be previously come upon (which is called discussion) in the form directed under the title of *suretyship* and during the process against said property, that is during the discussion the sale of the property mortgaged and in the possession of the third person,** shall be suspended.

CN 1804, Art. 2170.

Nevertheless the third possessor who is not personally liable for the debt, may oppose the sale of the mortgaged property which has been transmitted to him, if there are other immovables mortgaged for the same debt within the possession of the principal debtor or debtors, and demand the previous discussion of it, in the form directed under the title of *Suretyship*: during this discussion the sale of the property mortgaged shall be suspended.

*In connection with this article see CP, Art. 71.

**“Notwithstanding” has no counterpart in French text.

***“And in the possession of the third person” has no counterpart in French text.

ART. 3404.* The plea of discussion can not be opposed to** the creditors, who have either a privilege or a special mortgage on the property found in the possession of a third person.

RCC—2574, 2772, 3045 *et seq.*, 3186, 3249, 3271, 3288, 3296, 3306, 3403.
CP—73. Const. 1921, XIV, 16.

Le tiers-détenteur, qui n'est pas personnellement obligé à la dette, peut,** dans les dix jours de la notification de l'ordre de saisie, s'opposer à la vente des biens hypothéqués, qui sont en sa possession, s'il a de bonnes raisons à faire valoir pour cela, comme le défaut d'inscription ou autres, ou s'il est demeuré d'autres biens hypothéqués à la même dette, dans la possession du principal ou des principaux obligés; dans ce dernier cas, il pourra requérir la discussion préalable de ces biens, selon la forme réglée au titre du *cautionnement*, et pendant cette discussion, il sera sursis [sursis] à la vente du bien hypothéqué.***

-p. 463, Art. 44.

Le tiers détenteur, qui n'est pas personnellement obligé à la dette, peut,** dans les dix jours de la notification de l'ordre de saisie, s'opposer à la vente des biens hypothéqués, qui sont en sa possession, s'il a de bonnes raisons à faire valoir pour cela, comme le défaut d'inscription ou autres, ou s'il est demeuré d'autres biens hypothéqués à la même dette, dans la possession du principal ou des principaux obligés, dans ce dernier cas, il pourra requérir la discussion préalable desdits biens, selon la forme réglée au titre du *cautionnement*, et pendant cette discussion, il sera sursis à la vente du bien hypothéqué.***

Néanmoins le tiers détenteur qui n'est pas personnellement obligé à la dette, peut s'opposer à la vente de l'héritage hypothéqué qui lui a été transmis, s'il est demeuré d'autres immeubles hypothéqués à la même dette dans la possession du principal ou des principaux obligés, et en requérir la discussion préalable selon la forme réglée au titre du *Cautionnement*: pendant cette discussion, il est sursis à la vente de l'héritage hypothéqué.

RCC 1870, Art. 3404.

Same as above.

(Same as Art. 3404 of Proposed Revision of 1869)

CC 1825, Art. 3367.

(No reference in Projet)

The plea of discussion cannot be opposed to** the creditors, who have either a privilege or a special mortgage on the property found within the possession of a third person.

L'exception de discussion ne peut être opposée au** créancier privilégié, ou ayant hypothèque spéciale sur les biens qui se trouvent en la possession du tiers.

CC 1808, p. 462, Art. 45.

Same as above; but no punctuation after "creditors."

-p. 463, Art. 45.

Same as above.

CN 1804, Art. 2171.

The plea of discussion cannot be opposed to** the creditors who have either a privilege or a special mortgage on the immovable.

L'exception de discussion ne peut être opposée au** créancier privilégié ou ayant hypothèque spéciale sur l'immeuble.

*In connection with this article see CP, Art. 73.

**"Opposed to" is used here in the sense of "set up against" or "asserted against."

ART. 3405.* The third possessor who wishes to avoid the action of mortgage, may, before or after the order of seizure, declare that he relinquishes the property affected by the mortgage, and of which he has possession.

This relinquishment may be made by all third possessors, who are not personally bound for the debt and who are capable of alienating; and it does not deprive them, before the sale, of the right of retaking the property mortgaged, which was in their possession, on discharging the debt, together with the interest and costs.

RCC—1433 *et seq.*, 1782, 1935, 1938, 2012, 3296, 3300, 3399 *et seq.*, 3406, 3409. CP—74. Acts 1934, No. 121.

RCC 1870, Art. 3405.

Same as above.

(Same as Art. 3405 of Proposed Revision of 1869)

CC 1825, Art. 3368.

(No reference in Projet)

The third possessor, who wishes to avoid the action of mortgage, may, before or after the order of seizure, declare that he relinquishes the property affected to the mortgage, of which he has possession.

Par. 2 same as par. 2, above; but comma (,) after "for the debt", and after "alienating."

Le tiers-détenteur, qui veut se mettre à l'abri de l'action hypothécaire, peut, avant ou depuis l'ordonnance de saisie, déclarer qu'il délaisse les biens affectés à l'hypothèque, qui se trouvent entre ses mains.

Ce délaissement peut être fait par tous les tiers détenteurs, qui ne sont pas personnellement obligés à la dette, et qui ont la capacité d'aliéner**; et il n'empêche pas que, jusqu'à l'adjudication sur la saisie, le tiers détenteur ne puisse reprendre les biens hypothéqués dont il était en possession, en payant toute la dette et les frais.

CC 1808, p. 462, Art. 46.

Par. 1 same as par. 1, above; but no punctuation after "possessor", after "may", or after "the mortgage."

This *relinquishment* may be made by all the third possessors who are not

-p. 463, Art. 46.

Same as above; but no punctuation after "à l'hypothèque"; comma (,) after "d'aliéner."

personally bound for the debt,** nor does it bar them before the sale in execution of the right of retaking the property mortgaged which was in their possession, on discharging the debt together with the interest and costs.

CN 1804, Art. 2172.

With regard to the relinquishment of the mortgaged property, it may be made by all third possessors who are not personally bound for the debt, and who are capable of alienating.

Quant au délaissement par hypothèque, il peut être fait par tous les tiers détenteurs qui ne sont pas personnellement obligés à la dette, et qui ont la capacité d'aliéner.

-Art. 2173.

It may even be made after the third possessor has acknowledged the obligation or has been cast in judgment in this capacity only; the relinquishment does not deprive him, before the sale, of the right of retaking the immovable on discharging the debt, together with the interest and costs.

Il peut l'être même après que le tiers détenteur a reconnu l'obligation ou subi condamnation en cette qualité seulement: le délaissement n'empêche pas que, jusqu'à l'adjudication, le tiers détenteur ne puisse reprendre l'immeuble en payant toute la dette et les frais.

*In connection with this article see CP, Art. 74.

**English translation of French text incomplete; should include "and who are capable of alienating."

ART. 3406. The act of relinquishment shall be executed before a notary public in the presence of two witnesses, and notified to the creditor or creditors who have brought the hypothecary action.

On the petition of the first of the interested persons who sues, a curator is appointed to the property relinquished, and under him the sale of the property is conducted in the manner prescribed by law.

RCC—1167 *et seq.*, 1433, 2234, 2242, 3305, 3399 *et seq.* CP—116, 194, 195.

RCC 1870, Art. 3406.

Same as above.

CC 1825, Art. 3369.

Same as above.

(No reference in Projet)

Le délaissement par hypothèque se fait par devant le premier notaire, et en présence de deux témoins, et doit être notifié au créancier ou aux créanciers qui poursuivent sur l'action hypothécaire.

Sur la pétition du plus diligent des intéressés, il est créé à l'immeuble délaissé un curateur, sur lequel la vente de l'immeuble est poursuivie dans les formes prescrites par la loi.

CC 1808, p. 462, Art. 47.

Said act of relinquishment shall be executed before a notary public in the presence of two witnesses and notified to the creditor or creditors who have brought the hypothecary action.

Par. 2 same as par. 2, above.

-p. 463, Art. 47.

Same as above; but comma (,) after "délaissement", after "hypothèque", after "créancier", and after "délaissé."

CN 1804, Art. 2174.

The act of relinquishment shall be executed before the clerk of court of

Le délaissement par hypothèque se fait au greffe du tribunal de la situa-

the place where the property is situated, and an official certificate thereof shall be given by the court.

On the petition of the first of the interested persons who sues, a curator is appointed to the property relinquished, and under him the sale of the property is conducted in the manner prescribed for expropriations.

tion des biens, et il en est donné acte par ce tribunal.

Sur la pétition du plus diligent des intéressés, il est créé à l'immeuble délaissé un curateur sur lequel la vente de l'immeuble est poursuivie dans les formes prescrites pour les expropriations.

ART. 3407. The deteriorations, which proceed from the deed or neglect of the third possessor to the prejudice of the creditors who have a privilege or a mortgage, give rise against the former to an action of indemnification; but he can claim for his expenses and improvements only to the amount of the increased value which is the result of the improvements made.

RCC—508, 1256, 1257, 1259, 1260, 1433, 1515, 2044, 2155, 2219, 2299, 2315, 2507 *et seq.*, 3399 *et seq.*, 3408, 3451 *et seq.*

RCC 1870, Art. 3407.

(Same as Art. 3407 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3370.

(No reference in Projet)

The deteriorations, which proceed from the deed or neglect of the third possessor, to the prejudice of the creditors who have a privilege or a mortgage, give rise against the former to an action of indemnification; but he can claim for his expenses and improvements only to the amount of the increased value which is the result of the improvement made.

Les détériorations qui procèdent du fait ou de la négligence du tiers détenteur, au préjudice des créanciers hypothécaires ou privilégiés, donnent lieu contre lui à une action en indemnité; mais il ne peut répéter ses impenses et améliorations, que jusqu'à concurrence de la plus value, résultant de l'amélioration.

CC 1808, p. 462, Art. 48.

The deterioration [deteriorations] which proceed from the deed or neglect of the third possessor, to the prejudice of the creditors who have a privilege or a mortgage, give rise against the former to an action of indemnification, but he can claim for his expenses and improvements only to the amount of the increased value which is the result of the improvement made.

-p. 463, Art. 48.

Same as above; but comma (,) after "indemnité."

CN 1804, Art. 2175.

Same as CC 1825, Art. 3370, above.

Same as above; but no punctuation after "détenteur", after "améliorations", or after "value"; semicolon (;) after "indemnité."

ART. 3408. The fruits or income* of the property mortgaged are due by the third possessor, only from the time when the notification of the order of seizure was served on him: and in case of the discontinuance of the suit during one year, only from the day when a new notification of the order of seizure shall be served on him.

RCC—501 *et seq.*, 3405, 3407, 3451 *et seq.*

RCC 1870, Art. 3408.

(Same as Art. 3408 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3371.(No reference in *Projet*)

The fruits or income* of the property mortgaged are due by the third possessor, only from the time when the order of seizure was served on him, and in case of the discontinuance of the suit during one year, only from the day when a new order of seizure shall be served on him.

Les fruits* des biens hypothéqués ne sont dus par le tiers détenteur, qu'à compter du jour de la notification de l'ordre de saisie; et si les poursuites commencées ont été abandonnées pendant un an, qu'à compter de la notification qui sera faite d'un nouvel ordre de saisie.

CC 1808, p. 462, Art. 49.

Same as above; but no punctuation after "possessor", or after "was served on him"; comma (,) after "mortgaged."

-p. 463, Art. 49.

Same as above; but comma (,) after "dus", and after "l'ordre de saisie."

CN 1804, Art. 2176.

The fruits of the immovable mortgaged are due by the third possessor only from the time of the summons to pay or to relinquish, and in case of the discontinuance of the suit during three years, from the day a new summons is made.

Les fruits de l'immeuble hypothéqué ne sont dus par le tiers détenteur qu'à compter du jour de la sommation de payer ou de délaisser, et, si les poursuites commencées ont été abandonnées pendant trois ans, à compter de la nouvelle sommation qui sera faite.

*"Or income" has no counterpart in French text.

ART. 3409. The servitudes and incorporeal* rights which the third possessor held on the property before his possession of it, are renewed after his relinquishment, or after the sale under execution made upon him. His own creditors, after those who held their titles under the preceding proprietors, exercise their rights of mortgage in their order on the property relinquished or sold at auction.

RCC—470, 533, 626, 627, 646, 652, 783, 805 *et seq.*, 1433 *et seq.*, 2261, 2266, 3269 *et seq.*, 3329, 3342, 3399 *et seq.*, 3405, 3411.

RCC 1870, Art. 3409.

(Same as Art. 3409 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3372.(No reference in *Projet*)

The services and incorporeal* rights that the third possessor holds on the property before its possession, are renewed after his relinquishment, or after the sale in execution made upon him. His own creditors, after those who held their titles under the preceding proprietors, exercise their rights of mortgage in their order, on the property relinquished or sold at auction.

Les servitudes et les droits réels,* que le tiers détenteur avait sur l'immeuble avant sa possession, renaissent après le délaissement, ou après la vente sur saisie faite sur lui. Ses créanciers personnels, après tous ceux qui tiennent leurs titres des précédents propriétaires, exercent leur hypothèque à leur rang, sur le bien délaissé ou adjudgé.

CC 1808, p. 462, Art. 50.

The services and incorporeal rights* that the third possessor hold [held] on the property before its possession, are renewed after his relinquishment or after the sale in execution made upon him.

His own creditors, after all those who held their titles under the preceding proprietors, exercise their rights of mortgage in their order, in the property relinquished or sold at auction.

-p. 463, Art. 50.

Same as above; but comma (,) after "vente."

CN 1804, Art. 2177.

The servitudes and real rights which the third possessor held on the property before his possession of it, are renewed after his relinquishment or after the adjudication made against him.

His own creditors, after those having recordations against preceding proprietors, exercise their rights of mortgage in their order, on the property relinquished or sold at auction.

Les servitudes et droits réels que le tiers détenteur avait sur l'immeuble avant sa possession, renaissent après le délaissement ou après l'adjudication faite sur lui.

Ses créanciers personnels, après tous ceux qui sont inscrits sur les précédents propriétaires, exercent leur hypothèque à leur rang, sur le bien délaissé ou adjugé.

*Note error in English translation of French text; "incorporeal" should be "real."

ART. 3410. The third possessor who has either discharged the mortgage debt, or relinquished the property mortgaged or suffered it to be sold under execution, has, according to law, an action of warranty against the principal debtor.

RCC—581, 1433 *et seq.*, 1441, 1638, 2476, 3400 *et seq.* CP—378 *et seq.*

RCC 1870, Art. 3410.

(Same as Art. 3410 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3373.

(No reference in Projet)

The third possessor, who has either discharged the mortgage debt, or relinquished the property mortgaged, or suffered it to be sold in execution, has, according to law, an action of warranty against the principal debtor.

Le tiers détenteur, qui a payé la dette hypothécaire, ou délaissé les biens hypothéqués, ou qui a souffert leur vente sur saisie, a le recours en garantie, tel que de droit, contre le débiteur principal.

CC 1808, p. 464, Art. 51.

The third possessor who has either discharged the mortgaged debt or relinquished the property mortgaged or suffered them to be sold in execution, has, according to law, an action of warranty against the principal debtor.

-p. 465, Art. 51.

Same as above.

CN 1804, Art. 2178.

The third possessor who has either discharged the mortgage debt, or relinquished the immovable mortgaged, or suffered it to be expropriated, has, according to law, an action of warranty against the principal debtor.

Le tiers détenteur qui a payé la dette hypothécaire, ou délaissé l'immeuble hypothéqué, ou subi l'expropriation de cet immeuble, a le recours en garantie, tel que de droit, contre le débiteur principal.

Chapter 4—HOW MORTGAGES EXPIRE OR ARE EXTINGUISHED

ART. 3411. Mortgages are extinguished:

1. By the extinction of the thing mortgaged.
2. By the creditor acquiring the ownership of the thing mortgaged.
3. By the extinction of the mortgagor's right.
4. By the extinction of the debt, for which the mortgage was given.

5. By the creditor renouncing the mortgage.

6. By prescription.

RCC—2130, 2131, 2132, 2133 *et seq.*, 2185 *et seq.*, 2199 *et seq.*, 2207 *et seq.*, 2217, 2219 *et seq.*, 3277, 3285, 3369, 3371 *et seq.*, 3378, 3385, 3409, 3457, 3459, 3528, 3529, 3540, 3544, 3547.

RCC 1870, Art. 3411. (Same as Art. 3411 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3374. (Projet, p. 398. Substitution adopted; no comment)

Mortgages are extinguished:

1. By the extinction of the thing mortgaged;

2. By the creditor acquiring the property of the thing mortgaged;

3. By the extinction of the mortgagor's right;

4. By the extinction of the debt, for which the mortgage was given;

5. By the creditor renouncing the mortgage;

6. By prescription.

Les hypothèques s'éteignent:

1. Par l'extinction de la chose hypothéquée;

2. Par l'acquisition que le créancier fait de la chose hypothéquée;

3. Par la résolution et extinction du droit de celui qui a constitué l'hypothèque;

4. Par l'extinction de la dette, pour laquelle l'hypothèque a été constituée;

5. Par la renonciation du créancier à l'hypothèque;

6. Enfin par la prescription.

CC 1808, pp. 472, 473, Art. 81, par. 1 and subds. 1-3.

Quoted under RCC 1870, Art. 3277, above.

CN 1804, Art. 2180, par. 1; subds. 1, 2; par. 1 under subd. 4.

Quoted under RCC 1870, Art. 3277, above.

TITLE XXIII—OF OCCUPANCY, POSSESSION AND PRESCRIPTION

Chapter 1—OF OCCUPANCY

ART. 3412. Occupancy is a mode of acquiring property by which a thing which belongs to nobody,* becomes the property of the person who took possession of it, with the intention of acquiring a right of ownership upon it.

RCC—448 *et seq.*, 481 *et seq.*, 488 *et seq.*, 496, 870, 3413 *et seq.*, 3426 *et seq.*, 3430, 3436 *et seq.*, 3457 *et seq.*, 3472 *et seq.*

RCC 1870, Art. 3412.

Same as above.

CC 1825, Art. 3375.

(No reference in Projet)

Same as above; but comma (,) after "thing."

L'occupation est une manière d'acquérir, suivant laquelle les choses, qui n'appartiennent à personne, passent au pouvoir et* en la propriété de celui qui s'en empare, avec l'intention de se les approprier.

CC 1808, p. 472, Art. 1.

Same as above.

-p. 473, Art. 1.

Same as above; but no punctuation after "choses."

CN 1804. No corresponding article.